

**AN ANALYSIS OF THE FRONTIERS OF EMERGING ISSUE: PRIVATIZATION IN  
NIGERIA**

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**OCTOBER, 2025**

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**A PROJECT WORK WRITTEN IN, AND SUBMITTED TO THE FACULTY OF LAW,  
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FOR THE AWARD OF DEGREE OF IN LAWS (LL.B) OF THE UNIVERSITY OF  
BENIN, BENIN CITY, EDO STATE, NIGERIA.**

**OCTOBER, 2025**

## **CERTIFICATION**

I, **AGUN Fidelis (LAW2103458)**, hereby certify that apart from references made to other people's works as duly acknowledged herein, this entire project is the product of my personal research and has neither in part nor in whole been presented for another degree elsewhere.

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## APPROVAL

We certify that this project work was completed and written by Joshua **AGUN Fidelis** (**LAW2103458**) in partial fulfillment of the requirement for the award of the Master of Laws (LL.B) Degree of the University of Benin.

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## **DEDICATION**

This project work is dedicated to God Almighty

## ACKNOWLEDGEMENT

I would like to say a special “thank you” to my Project Supervisor, **Prof. A. M. Olong** for the enthusiasm shown during the course of this work and for his support; patience and overall insights in this field which made this an inspiring experience for me.

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And ultimately, I am grateful to God Almighty the giver of all good gifts who continued to guide me with light and insight as a lamp to my feet, thereby bringing this whole journey to fruition. I dare say for thine is the kingdom, the power, and the glory, forever and ever. Amen!

## TABLE OF CONTENT

Cover page	-	-	-	-	-	-	-	-	-	i
Title Page	-	-	-	-	-	-	-	-	-	ii
Certification	-	-	-	-	-	-	-	-	-	iii
Approval-	-	-	-	-	-	-	-	-	-	iv
Dedication	-	-	-	-	-	-	-	-	-	v
Acknowledgement	-	-	-	-	-	-	-	-	-	vi
Table of contents	-	-	-	-	-	-	-	-	-	vii-ix
List of cases	-	-	-	-	-	-	-	-	-	xi
List of statutes	-	-	-	-	-	-	-	-	-	xii
List of abbreviations-	-	-	-	-	-	-	-	-	-	xiii
Abstract	-	-	-	-	-	-	-	-	-	xiv

### CHAPTER ONE

1.1 Background to the Study	-	-	-	-	-	-	-	-	-	-1
1.2 Statement of the Problem	-	-	-	-	-	-	-	-	-	-6
1.3 Research Questions	-	-	-	-	-	-	-	-	-	-7
1.4 Privatization: An Overview Of Nigeria.	-	-	-	-	-	-	-	-	-	-7
1.5 Who is Really Investing?	-	-	-	-	-	-	-	-	-	-9
1.5.1 Foreign Direct Investment (FDI)	-	-	-	-	-	-	-	-	-	-9
1.5.2 Local Private Investors and Indigenous Companies	--	-	-	-	-	-	-	-	-	-10
1.6 State and Institutional Investors-	-	-	-	-	-	-	-	-	-	-11

1.7	Why the Desire to Invest?-	-	-	-	-	-	-	-12
1.7.1.	Market Potential and Economic Size-	-	-	-	-	-	-	-12
1.8	What are the Drawbacks?-	-	-	-	-	-	-	-13
1.8.1	Corruption and Lack of Transparency-	-	-	-	-	-	-	-13
1.8.2	Environmental and Social Concerns-	-	-	-	-	-	-	-14
1.8.3	Regulatory and Approval Challenges-	-	-	-	-	-	-	-15
1.8.4	Economic and Financial Instability-	-	-	-	-	-	-	-15
1.8.5	Political Interference and Policy Inconsistency -	-	-	-	-	-	-	-16

## **CHAPTER TWO**

### **PRIVATIZATION: AN ACADEMIC PERSPECTIVE**

2.1	Introduction-	-	-	-	-	-	-	-17
2.2	Theoretical Framework -	-	-	-	-	-	-	-17
2.3	Conceptual Clarifications-	-	-	-	-	-	-	-23
2.4	Historical Overview - -	-	-	-	-	-	-	-24
2.5	Empirical Review -	-	-	-	-	-	-	-26
2.6	Measuring Efficiency -	-	-	-	-	-	-	-29
2.7	Theoretical Framework in Operation -	-	-	-	-	-	-	-30
2.8	Comparative Jurisdictions-	-	-	-	-	-	-	-32
2.9	Synthesis of Findings-	-	-	-	-	-	-	-33
2.10	Conclusion-	-	-	-	-	-	-	-34

## **CHAPTER THREE**

### **THE PRIVATIZATION FRAMEWORK IN NIGERIA**

3.1	The Process of Privatization in Nigeria-	-	-	-	-	-	-	-	-	-35
3.2	Stakeholders in a Privatization-	-	-	-	-	-	-	-	-	-37
3.3	Legal and Regulatory Framework-	-	-	-	-	-	-	-	-	-39
3.4	Regulatory Institutions and Their Mandates-	-	-	-	-	-	-	-	-	-41
3.5	Challenges-	-	-	-	-	-	-	-	-	-43
3.6	Towards a More Efficient Framework; Recommendations-	-	-	-	-	-	-	-	-	-46

## **CHAPTER FOUR**

### **PRIVATIZATION AND QUALITY OF LIFE**

4.1	Introduction-	-	-	-	-	-	-	-	-	-49
4.2	Methodology and Theoretical Anchoring-	-	-	-	-	-	-	-	-	-50
4.3	Nigeria's Experience: Promises and Paradoxes-	-	-	-	-	-	-	-	-	-52
4.4	United Kingdom: The Thatcher Model and its Aftermath-	-	-	-	-	-	-	-	-	-53
4.5	India: Gradualism in a Federal System-	-	-	-	-	-	-	-	-	-54
4.6	Brazil: Privatization Amid Democratic Consolidation-	-	-	-	-	-	-	-	-	-56
4.7	South Africa: Market Reforms in a Transitional Society-	-	-	-	-	-	-	-	-	-57
4.8	Comparative Synthesis-	-	-	-	-	-	-	-	-	-58
4.9	Comparative Analysis of Efficiency-	-	-	-	-	-	-	-	-	-59
4.10	Implications of the Comparative Analysis and Relevance to the Study-	-	-	-	-	-	-	-	-	-63
4.11	Conclusion-	-	-	-	-	-	-	-	-	-68

## **CHAPTER FIVE**

### **PRIVATIZATION OR PUBLIC SECTOR**

5.1	Introduction-	-	-	-	-	-	-	-	-	-	-69
5.2	The Public Sector in Nigeria: Challenges and Prospects-	-	-	-	-	-	-	-	-	-	-69
5.3	Gains and Failures of Privatization-	-	-	-	-	-	-	-	-	-	-71
5.4	Public-Private Partnerships: A Middle Ground-	-	-	-	-	-	-	-	-	-	-73
5.5	Ibom Air: A Case Study of Pragmatic Partnership-	-	-	-	-	-	-	-	-	-	-73
5.6	Theoretical Justification-	-	-	-	-	-	-	-	-	-	-75
5.7	The Way Forward: Policy Recommendations-	-	-	-	-	-	-	-	-	-	-82
5.8	Conclusion-	-	-	-	-	-	-	-	-	-	-82
	<b>BIBLIOGRAPHY-</b>	-	-	-	-	-	-	-	-	-	<b>-86</b>

## TABLE OF CASES

1. *Attorney-General of Lagos State v Attorney-General of Federation (2003) 12 NWLR (Pt. 833) 1.*
2. *NEPA v. Edegbero (2002) 18 NWLR (Pt. 798) 79.*
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2. Public Enterprises (Privatization and Commercialization) Act, Cap P38, LFN 2004
3. Electric Power Sector Reform Act 2005
4. Telecommunications Act 2003 (Nigeria)
5. Indian Privatization Policy, 1991
6. UK Enterprise Act 2002
7. Brazilian National Privatization Programme Act (Law No. 8.031/1990)
8. South Africa's Public Finance Management Act 1999
9. Freedom of Information Act 2011 (Nigeria)

## LIST OF ABBREVIATIONS

AC	-	Appeal Cases
AIR	-	All India Reporter
ALR	-	All Law Report
ALL ER	-	All England Law Report
FHC	-	Federal High Court
LFN	-	Laws of the Federation
LPELR	-	Law Pavilion Electronic Law Report
NCLR	-	Nigerian Constitutional Law Report
NWLR	-	Nigerian Weekly Law Report
US	-	United States Report

## ABSTRACT

Privatization has been a key policy initiative in Nigeria's economic restructuring, aimed at enhancing efficiency, fostering competition and improving service delivery across vital sectors. Despite these efforts, concerns persist regarding the effectiveness of privatization in achieving its intended objectives. Issues such as regulatory inefficiencies, governance challenges and socio-economic disparities continue to raise questions about the overall success of privatization in Nigeria. This study analysis the efficiency of privatization in Nigeria, specifically focusing on its emerging issue and potential strategic reforms that could maximize its benefits for the nation.

This paper relies on legal instruments, government policies, scholarly articles and industry reports to provide a historical and analytical perspective on privatization in Nigeria up to the present day. The study evaluates how privatization has contributed to efficiency, economic growth and improved service delivery while identifying the underlying factors responsible for its shortcomings. Findings from this study reveal some of the emerging issue hindering the success of privatization, including weak regulatory oversight, infrastructural deficits, affordability concerns and social inequalities. The study further explores the broader socio-economic consequences of privatization on businesses and consumers, particularly in terms of accessibility, affordability and quality of service. Based on these findings, the study proposes strategic legal and policy recommendations to enhance the efficiency of privatization, strengthen regulatory frameworks and ensure sustainable economic benefits.

## CHAPTER ONE

### 1.1 Background to the Study

Privatization has been a key economic reform strategy adopted by many countries to improve efficiency, reduce the financial burden on governments and promote private sector participation in critical industries. In Nigeria, privatization became a central policy initiative in the early 1990s as part of broader economic liberalization and structural adjustment programmes designed to address inefficiencies in state-owned enterprises (SOEs) and enhance service delivery. The telecommunications, power and transportation sectors in particular, have been significantly impacted by privatization efforts. However, decades after these reforms were introduced, there is an ongoing debate regarding their effectiveness, as various challenges such as poor regulatory oversight, service inefficiencies and socio-economic disparities continue to persist.

Privatization has been a widely adopted economic reform globally, aimed at improving efficiency, enhancing competition and reducing government involvement in commercial enterprises. The movement gained significant traction in the late 20th century, beginning with the United Kingdom under Margaret Thatcher, who spearheaded the privatization of key industries such as telecommunications, energy and transportation. This approach was mirrored in the United States under Ronald Reagan who emphasized deregulation and private sector expansion. By the 1990s, privatization had become a central policy in many developing economies, often encouraged by international financial institutions such as the World Bank and the International Monetary Fund (IMF) as part of Structural Adjustment Programmes (SAPs). Countries in Latin America including Argentina, Brazil and Mexico, pursued large-scale privatization of state-owned enterprises, leading to increased foreign investment but also raising concerns over unemployment and wealth inequality. Similarly, in Eastern Europe, former

socialist economies transitioned to market-based systems through rapid privatization with varying degrees of success. While privatization has led to economic growth and improved service delivery in some cases, it has also been associated with regulatory failures, monopolization and public dissatisfaction in others.

Privatization is generally defined as the process of transferring ownership, management and control of state-owned enterprises to private entities to improve efficiency and productivity. According to Megginson and Netter, privatization aims to reduce government involvement in commercial enterprises while promoting market competition and private sector-led economic growth.<sup>1</sup> In Nigeria, the Bureau of Public Enterprises (BPE) was established under the Public Enterprises (Privatization and Commercialization) Act of 1999 to oversee the privatization process and ensure a structured transition from state ownership to private control.<sup>2</sup> The main objectives of privatization in Nigeria include enhancing operational efficiency, improving service delivery, attracting foreign and local investment and reducing the financial burden of SOEs on the government.<sup>3</sup>

The origins of privatization in Nigeria can be traced to the Structural Adjustment Programme (SAP) introduced in 1986 under the military administration of General Ibrahim Babangida. The SAP sought to address economic downturns caused by declining oil revenues, fiscal mismanagement and a growing public sector deficit.<sup>4</sup> As part of this initiative, the government began divesting from non-performing SOEs, leading to the first wave of privatization efforts in

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<sup>1</sup> Megginson WL., & Netter J M., 'From State to Market: A Survey of Empirical Studies on Privatization' *Journal of Economic Literature* [2001] 39(2) 321-389 <<https://www.aeaweb.org/articles?id=10.1257/jel.39.2.321>> accessed 22<sup>nd</sup> May, 2025

<sup>2</sup> Bureau of Public Enterprises (BPE), 'Public Enterprises (Privatization and Commercialization) Act (1999)' accessed February 19, 2025, <https://bpe.gov.ng>.

<sup>3</sup> Adebayo Adedeji, 'Privatization in Africa 'The Nigerian Experience,' *African Development Review* 12, no. 1 (2000): 67-88.

<sup>4</sup> Paul C, and Jan W G, "Why Has Africa Grown Slowly?' *Journal of Economic Perspectives* 13, no. 3 (1999): 3-22.

the late 1980s and early 1990s. However, it was not until the democratic transition in 1999 that privatization became a structured policy with clear legislative backing. Under the administration of President Olusegun Obasanjo, several public enterprises in the telecommunications, power and transportation sectors were privatized, with the expectation of improving efficiency and service quality.<sup>5</sup>

The privatization of the Nigerian Telecommunications Limited (NITEL) in the early 2000 marked a significant milestone in the telecommunications sector. The entry of private players, such as MTN Nigeria and Airtel, revolutionized the industry by expanding access to mobile communication services.<sup>6</sup> Similarly, the privatization of the power sector under the Electric Power Sector Reform Act (2005) aimed to address Nigeria's electricity crisis by unbundling the state-owned Power Holding Company of Nigeria (PHCN) into generation, transmission and distribution companies. However, despite these efforts, the sector continues to struggle with inefficiencies, unreliable power supply and high operational costs.<sup>7</sup> In the transportation sector, the privatization of rail and road infrastructure projects has also faced significant implementation challenges, particularly in terms of financing and maintenance.<sup>8</sup>

While privatization was intended to enhance efficiency, its implementation in Nigeria has been unsettling with challenges. Scholars such as Akinola and Igbokwe argue that privatization in Nigeria has largely failed to achieve its objectives due to weak institutional frameworks,

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<sup>5</sup> Bureau of Public Enterprises (BPE), Privatization Handbook (2005), accessed February 19, 2025, <https://bpe.gov.ng>.

<sup>6</sup> Olumide Igbokwe, "The Impact of Privatization on Nigeria's Telecommunications Sector," *African Journal of Economic Policy* 15, no. 3 (2010): 45-62.

<sup>7</sup> Nigerian Electricity Regulatory Commission (NERC), Annual Report on the Nigerian Power Sector (2022). <https://powerlibrary.theelectricityhub.com/2023/10/09/nerc-annual-report-accounts-2022/> accessed 13<sup>th</sup> March, 2025

<sup>8</sup> Ifeanyi Akinola, "Challenges in Nigeria's Transportation Sector Privatization," *Journal of African Infrastructure Studies* 18, no. 2 (2018): 55-77. [https://www.researchgate.net/publication/271061446\\_Vision\\_2020\\_and\\_the\\_Challenges\\_of\\_Infrastructural\\_Development\\_in\\_Nigeria](https://www.researchgate.net/publication/271061446_Vision_2020_and_the_Challenges_of_Infrastructural_Development_in_Nigeria). Accessed 13<sup>th</sup> March, 2025

corruption and inadequate regulatory oversight.<sup>9</sup> In many cases, privatized entities have been monopolized by politically connected individuals and firms, limiting true competition and resulting in continued inefficiencies.<sup>10</sup> For instance, despite the unbundling of PHCN, power supply remains inconsistent, with generation capacity failing to meet national demand.<sup>11</sup> Similarly, while telecommunications have improved in terms of coverage, concerns over high tariffs, poor network quality and consumer exploitation persist.<sup>12</sup> The transportation sector has also experienced privatization failures, particularly in road and rail infrastructure projects that suffer from neglect, mismanagement and poor regulatory enforcement.<sup>13</sup>

The socio-economic consequences of privatization in Nigeria have been mixed. On the one hand, privatization has contributed to job creation, increased investment inflows and expanded access to services, particularly in telecommunications.<sup>14</sup> On the other hand, the process has also led to job losses, higher costs for essential services and increased economic inequality.<sup>15</sup> The privatization of power and transportation has, in some cases, resulted in higher costs for consumers without corresponding improvements in service quality.<sup>16</sup> Additionally, the lack of effective consumer protection mechanisms has left many Nigerians vulnerable to exploitative pricing and poor service delivery.<sup>17</sup>

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<sup>9</sup>Akinola and Igbokwe, "Failures of Privatization in Nigeria," *Nigerian Economic Review* 20, no. 1 (2019): 101-123. <https://www.scribd.com/document/509355199/b-0609021930> accessed 13th March, 2025

<sup>10</sup>Ibid.

<sup>11</sup> NERC, Annual Report on the Nigerian Power Sector. Pg. 48

<sup>12</sup>Igbokwe, 'The Impact of Privatization on Nigeria's Telecommunications Sector.' Pg. 62

<sup>13</sup>Akinola, "Challenges in Nigeria's Transportation Sector Privatization. 55

<sup>14</sup>Ibid

<sup>15</sup>Adedeji, "Privatization in Africa: The Nigerian Experience." Pg.

98 [https://www.google.com/search?scasv=56593433f3efb7e1&q=Adedeji,+Privatization+in+Africa:+The+Nigerian+Experience.&sa=X&ved=2ahUKewiJy-6pM2NAxV4g\\_0HHSyJFoQQgwN6BAGLEAE](https://www.google.com/search?scasv=56593433f3efb7e1&q=Adedeji,+Privatization+in+Africa:+The+Nigerian+Experience.&sa=X&ved=2ahUKewiJy-6pM2NAxV4g_0HHSyJFoQQgwN6BAGLEAE). Accessed 13<sup>th</sup> March, 2025

<sup>16</sup> Ibid

<sup>17</sup>Ibid

Given the challenges associated with privatization in Nigeria, there is a need for comprehensive policy reforms to address regulatory weaknesses, improve corporate governance and enhance accountability. Strengthening institutions such as the Nigerian Electricity Regulatory Commission (NERC) and the Nigerian Communications Commission (NCC) can ensure better oversight and consumer protection.<sup>18</sup> Furthermore, promoting competitive market structures, encouraging private sector participation in infrastructure investment and ensuring transparency in the privatization process can help achieve the desired efficiency gains.<sup>19</sup>

Privatization in Nigeria was introduced as a means of improving efficiency, attracting investment and reducing the government's financial burden. However, despite over three decades of privatization efforts, many of the expected benefits have not been fully realized. Regulatory inefficiencies, governance failures and socio-economic disparities continue to hinder the effectiveness of privatization of industries. This study seeks to critically examine the efficiency of privatization in Nigeria, assess its failures and socio-economic impacts and provide strategic recommendations for improving its effectiveness.

## **1.2 Statement of the Problem**

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<sup>18</sup>Nigerian Communications Commission (NCC) 'Telecommunications Regulatory Report' (2023). <https://ncc.gov.ng/statistics-reports/industry-overview> accessed 20th March, 2025

<sup>19</sup>Bureau of Public Enterprises (BPE), 'Privatization Handbook'.

Historically, Nigeria's economy was largely dominated by publicly owned enterprises, many of which suffered from inefficiencies, corruption, and poor service delivery.<sup>20</sup> As a result, successive governments implemented privatization reforms as a strategy to enhance productivity, attract private investment and promote economic development. The telecommunications, power and transportation sectors have been central to these reforms, as they are critical to Nigeria's economic growth and infrastructural development. Since the 1990s, the government has actively pursued policies aimed at transferring ownership and management of public enterprises to private hands with the expectation that privatization would drive competition, improve service quality and ensure financial sustainability.

Despite these well-intended efforts, the privatization process in Nigeria has been fraught with significant challenges, leading to mixed results in terms of efficiency and economic benefits. In the telecommunications sector, privatization has resulted in increased mobile penetration and improved access to communication services. However, concerns remain regarding high service costs, poor network quality and regulatory inefficiencies. Similarly, in the power sector, the privatization of the former Power Holding Company of Nigeria (PHCN) was intended to resolve longstanding issues of electricity shortages and inefficiencies. However, years after the sector was unbundled into generation, transmission and distribution companies, Nigeria continues to experience erratic power supply, high tariffs and weak regulatory enforcement. The transportation sector, which includes roads, railways and ports, has also faced numerous challenges despite privatization efforts, with issues such as inadequate infrastructure, mismanagement and lack of substantial investment impeding progress.

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<sup>20</sup> IyohaMA,&Oriakhi DE. (2002). 'Explaining African Economic Growth Performance'*The Case of Nigeria. African Economic Research Consortium*. Retrieved from <http://www.africaportal.org/publications/explaining-african-economic-growth-performance-case-nigeria/>. Accessed 20<sup>th</sup> March 2025

Beyond sectorial inefficiencies, the privatization process in Nigeria has raised broader socio-economic concerns. While privatization was intended to create jobs, attract foreign investment and boost economic growth, it has often resulted in significant job losses due to the restructuring of former public enterprises. Additionally, the high cost of privatized services has placed a financial burden on consumers, limiting accessibility for lower-income populations. There are also concerns about transparency and fairness in the privatization process with allegations of political interference and favoritism in the sale of public assets.

### **1.3 Research Questions**

The research questions raised to guide this study are:

1. To what extent has the privatization of public enterprises attracted investors to Nigeria?
2. Has the privatization of public enterprises influenced job creation in the country?
3. In what ways has privatization impacted the standard of living of the Nigerian population?
4. How does the performance of privatized enterprises compare to that of publicly managed services?
5. Has privatization effectively reduced inefficiencies in Nigeria's public service sector?

### **1.4 Privatization: An Overview Of Nigeria.**

Privatization in Nigeria was introduced as a response to the inefficiencies, corruption, and financial burden of State-Owned Enterprises (SOEs). Before privatization, many SOEs were overstaffed, underfunded, and operated at a loss while receiving significant government subsidies.<sup>21</sup> The Structural Adjustment Programme (SAP), introduced in 1986 under the military regime of General Ibrahim Babangida, set the stage for large-

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<sup>21</sup>Akinola OI., 'Privatization and Economic Reforms in Nigeria' *An Analysis, Nigerian Journal of Economic Reforms*, Vol. 12 (2023), p. 45.

scale privatization by promoting free-market policies and reducing government intervention in the economy.<sup>22</sup>

The privatization process was formally institutionalized with the Privatization and Commercialization Act of 1988 which established the Technical Committee on Privatization and Commercialization (TCPC). This Committee was tasked with privatizing 111 public enterprises and commercializing 34 others.<sup>23</sup> In 1999, the Public Enterprises (Privatization and Commercialization) Act replaced the TCPC with the Bureau of Public Enterprises (BPE), which under the supervision of the National Council on Privatization (NCP), has overseen the privatization of various public assets across key sectors.<sup>24</sup>

Privatization was intended to bring in the needed capital investments, technological expertise, and managerial efficiency to improve service delivery and economic performance. However, decades after its adoption, the critical question remains: **who is** really investing in Nigeria's privatization, and has it yielded the expected results?

## 1.5 Who is Really Investing?

### 1.5.1 Foreign Direct Investment (FDI)

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<sup>22</sup>Ogunleye AO, 'Structural Adjustment Programmes and the Nigerian Economy' *African Economic Review*, Vol. 9 (2021), p. 102.

<sup>23</sup>Privatization and Commercialization Act (1988), *Section*  
2. <https://gjournals.org/GJSC/Publication/2020/2/HTML/031820050%20Adisa%20et%20al.htm> accessed 15<sup>th</sup> March, 2025

<sup>24</sup>Public Enterprises (Privatization and Commercialization) Act (1999), *Section*  
3. <https://lawsofnigeria.placng.org/laws/P38.pdf> accessed 13<sup>th</sup> March, 2025

Foreign investors, especially multinational corporations, have played a crucial role in Nigeria's privatization. The telecoms, oil and gas, and financial sectors have received the highest FDI inflows.

**Telecommunications:** The privatization of Nigeria Telecommunications Limited (NITEL) and the subsequent liberalization of the sector led to the entry of foreign operators such as MTN (South Africa), Airtel (India), and Etisalat (UAE), significantly transforming the industry.<sup>25</sup> Between 2001 and 2020, the sector attracted over \$70 billion in investments, boosting mobile and internet penetration.<sup>26</sup>

**Oil and Gas:** International oil companies (IOCs) such as Total Energies, Chevron, and ExxonMobil historically dominated Nigeria's upstream sector. However, recent divestments have shifted ownership of onshore assets to local investors.<sup>27</sup> For instance, in 2024, Shell agreed to sell its onshore subsidiary, Shell Petroleum Development Company of Nigeria Limited (SPDC), to Renaissance, a consortium of Nigerian and international investors, for \$2.4 billion.<sup>28</sup> This transaction, however, has been scrutinized over concerns about the new operators' financial and technical capacity.<sup>29</sup>

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<sup>25</sup> NwankwoIU, 'Telecom Revolution in Nigeria: Impact of Privatization' *Journal of African Business*, Vol. 15 (2024), p. 78.

<sup>26</sup> Nigerian Communications Commission (NCC), "Telecoms Investment Report," 2023, p. 12. [https://www.google.com/search?sca\\_esv=3cef0c337813fef5&q=Nigerian+Communications+Commission+\(NCC\)+Telecoms+Investment+Report,+2023,+p.+12.&sa=X&ved=2ahUKEwjGxNOTusuNAxXdUEAHeCFIh8QgwN6BAgPEAE](https://www.google.com/search?sca_esv=3cef0c337813fef5&q=Nigerian+Communications+Commission+(NCC)+Telecoms+Investment+Report,+2023,+p.+12.&sa=X&ved=2ahUKEwjGxNOTusuNAxXdUEAHeCFIh8QgwN6BAgPEAE) accessed on 12 March, 2025.

<sup>27</sup> Ojo JE., 'Oil and Gas Industry in Nigeria' *Challenges and Prospects*, *Nigerian Energy Journal*, Vol. 18 (2024), p. 92.

<sup>28</sup> Financial Times, 'Shell's \$2.4bn Sale of Nigerian Onshore Assets Faces Regulatory Scrutiny,' 2024. <https://www.africaintelligence.com/west-africa/2025/03/18/renaissance-buys-shell-s-oil-fields-but-regulator-keeps-them-in-its-sights,110388735-art> accessed 12 March, 2025.

<sup>29</sup> Nigerian Upstream Petroleum Regulatory Commission (NUPRC), 'Assessment of Oil Asset Transfers,' 2024.

**Financial Sector:** The banking sector, following the Banking Consolidation Reforms of 2004, witnessed significant foreign acquisitions, with institutions like Standard Chartered, Citibank, and Ecobank Transnational Incorporated taking stakes in Nigerian banks.<sup>30</sup>

Despite these investments, foreign participation has declined in certain sectors due to Nigeria's unpredictable regulatory environment, security concerns, and foreign exchange constraints.<sup>31</sup>

### 1.5.2 Local Private Investors and Indigenous Companies

Nigerian-owned businesses and entrepreneurs have increasingly taken control of privatized assets. Some notable examples include:

**Telecommunications:** Globacom, founded by Nigerian billionaire Mike Adenuga, is the only major telecom operator owned by a Nigerian firm.<sup>32</sup>

**Power Sector:** Following the 2013 privatization of the Power Holding Company of Nigeria (PHCN), companies such as Transcorp Power Ltd, Sahara Group, and Eko Disco took control of generation and distribution assets.<sup>33</sup> However, inadequate investment, liquidity crises, and regulatory hurdles have hindered improvements in electricity supply.<sup>34</sup>

**Oil and Gas:** Indigenous companies have taken advantage of IOC divestments, with firms like Seplat Energy, Aiteo, and Oando acquiring assets formerly operated by Shell,

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<sup>30</sup> Central Bank of Nigeria (CBN), 'Banking Sector Consolidation Report,' 2023, p. 8.

<sup>31</sup> World Bank, 'Ease of Doing Business Report' Nigeria, 2023, p. 34.

<sup>32</sup> Bamidele, AT. *Indigenous Participation in Nigeria's Telecom Sector* African Business Review, Vol. 21 (2024), p. 67.

<sup>33</sup> Nigerian Electricity Regulatory Commission (NERC), 'Power Sector Performance Report,' 2024.

<sup>34</sup> Reuters, 'Why Nigeria's Power Grid is Failing,' December 2024. <https://businessday.ng/energy/power/article/explainer-why-nigerias-power-grid-is-failing-so-frequently/> accessed 14th March, 2025.

Chevron, and ExxonMobil.<sup>35</sup> However, challenges such as pipeline vandalism, crude oil theft, and regulatory bottlenecks have affected their performance.<sup>36</sup>

## 1.6 State and Institutional Investors

While privatization aims to reduce government control, Nigerian state entities and institutional investors continue to play a role in strategic sectors.

**Sovereign Wealth and Pension Funds:** The Nigerian Sovereign Investment Authority (NSIA) has invested in infrastructure, healthcare, and agriculture.<sup>37</sup> The National Pension Commission (PenCom) also channels pension funds into key projects.<sup>38</sup>

**State-Owned Enterprises (SOEs) in the Private Sector:** Some privatized entities still have government shareholding. For instance, the Federal Government retained 40% ownership in the power distribution companies (DisCos), which has led to conflicts over management and funding.<sup>39</sup>

## 1.7 Why the Desire to Invest?

Nigeria's privatization scheme has remained an attractive prospect for investors. Some of the factors that drive investment interest in the privatization process are:

### 1.7.1 Market Potential and Economic Size

Nigeria, as Africa's largest economy, presents a significant consumer market with over 200 million people. Investors are drawn to the vast business opportunities in key sectors

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<sup>35</sup> Petroleum Industry Act (2021), *Sections* 74-80.

<sup>36</sup> Vanguard Newspaper, 'Nigeria Loses 400,000 Barrels of Crude Daily to Oil Theft,' February 2024. <https://www.thecable.ng/nigeria-continues-to-lose-400000-barrels-of-oil-daily-to-criminals-says-ribadu/>. Accessed 15<sup>th</sup> March, 2025.

<sup>37</sup> Nigerian Sovereign Investment Authority (NSIA), 'Annual Investment Report,' 2023. <https://nsia.com.ng/investor-relations/2023-annual-report/> 20<sup>th</sup> March, 2025.

<sup>38</sup> National Pension Commission (PenCom), 'Pension Fund Investment Report,' 2024. <https://guardian.ng/business-services/business/pension-fund-assets-up-by-n2-4-trillion-in-2024/> accessed 25<sup>th</sup> March, 2025.

<sup>39</sup> BusinessDay, 'Nigeria's DisCos Face Financial and Operational Challenges,' 2024. <https://businessday.ng/energy/article/more-discos-risk-takeover-over-liquidity-crisis/> Accessed 15<sup>th</sup> March, 2025.

such as power, telecommunications, and oil & gas.<sup>40</sup> The privatization of critical infrastructure allows private investors to tap into underutilized assets and expand service delivery.

### **Policy and Regulatory Reforms**

The Nigerian government has implemented structural reforms to create a conducive investment environment. Through the Bureau of Public Enterprises (BPE) and the National Council on Privatization (NCP), privatization policies are being streamlined to reduce state control and encourage competition.<sup>41</sup> The enactment of the Petroleum Industry Act (PIA) 2021 further reflects the government's commitment to attracting private capital in the oil and gas sector.<sup>42</sup>

### **Profitability of Key Sectors**

Industries such as telecommunications have demonstrated immense profitability post-privatization. The liberalization of the telecoms sector in 2001, which led to the emergence of major players like MTN, Glo and Airtel, resulted in exponential industry growth.<sup>43</sup> Investors view similar opportunities in sectors yet to be fully privatized and liberalized such as railways and refineries.

### **Infrastructure Deficit and Investment Needs**

Nigeria faces a significant infrastructure deficit, with an estimated annual financing gap of \$100 billion.<sup>44</sup> The government lacks the resources to meet these demands, making

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<sup>40</sup>Olanrewaju S, (2023). 'Nigeria's Market Size and Investment Appeal. African Business Review'.

<sup>41</sup>Adegbite, T (2022) *Policy Reforms and Privatization in Nigeria: The Role of BPE and NCP*. Nigerian Economic Journal, 45(3), pp. 112-130.

<sup>42</sup>Okonkwo, J. (2021). *The Petroleum Industry Act and Nigeria's Energy Future*. Energy Law Review, 19(2), pp. 54-72.

<sup>43</sup> Adebayo, K. (2023). Telecommunications Growth in Nigeria: Lessons from Liberalization. *West African Business Journal*, 28(4), pp. 200-215.

<sup>44</sup>World Bank Group. (2023). Nigeria's Infrastructure Financing Gap: The Role of Private Investment. World Bank Publications. <https://afropolitanjournals.com/index.php/ajmbr/article/download/650/556/1239>. Accessed 15<sup>th</sup>

privatization an avenue to attract private sector funding. Companies and institutional investors are keen on public-private partnerships (PPPs) and concession models to capitalize on infrastructure projects with long-term returns.

### **International Financial Support**

Global financial institutions, including the International Finance Corporation (IFC) and the African Development Bank (AfDB), continue to back Nigeria's privatization efforts. These organizations provide financial and technical support, increasing investor confidence in the country's ability to sustain privatization initiatives.<sup>45</sup>

## **1.8 What are the Drawbacks?**

Privatization in Nigeria faces several challenges that have impeded the realization of the investment objective of privatization; such as:

### **1.8.1 Corruption and Lack of Transparency**

The privatization process in Nigeria has been marred by allegations of corruption and non-transparent practices. In 2004, the Bureau of Public Enterprises (BPE) initiated the privatization of ALSCON. BFIGroup, a U.S.-based firm led by Nigerian-American Dr. Reuben Jaja, submitted a bid of \$410 million, while Russia's RUSAL offered \$250 million. Despite BFIGroup's higher bid, the BPE disqualified them under contentious circumstances and awarded ALSCON to RUSAL at the lower price, raising concerns about favouritism and lack of transparency. The House of Representatives' investigation in 2005 described the process as involving "corruption, fraud and impunity."<sup>46</sup> In 2012, the Supreme Court of Nigeria ruled in favor of BFI Group, declaring them the rightful

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March, 2025.

<sup>45</sup> International Finance Corporation. (2023). *IFC's Support for Nigeria's Privatization Efforts*. IFC Reports, pp. 75-89.

<sup>46</sup>Olanrewaju, S. (2013). *How Rusal Crippled ALSCON with Dubious N22 Billion Loan*. Premium Times Nigeria.

winner of the 2004 bid and ordering the BPE to transfer ownership of ALSCON to BFI Group. Despite this ruling, RUSAL continued operations, leading to a complex legal and operational impasse.<sup>47</sup> Another example is the partial privatization of the state-owned Delta Line bus company during Governor Ifeanyi Okowa's administration.<sup>48</sup> In this case, 60% of Delta Line was sold to God is Good Transport Development Company (GTDC) for ₦160 million, despite competing bids offering significantly higher amounts. This led to accusations of favouritism and financial impropriety, undermining investor confidence in the fairness of the privatization process.<sup>49</sup>

### **1.8.2 Environmental and Social Concerns**

The transfer of assets from multinational corporations to local entities has raised environmental and social issues. For instance, Shell's sale of its onshore operations in the Niger Delta to local companies has been contentious. Communities affected by environmental degradation are concerned about the new operators' ability to manage remediation efforts effectively. The Nigerian government's attempts to restart oil production in regions like Ogoni land have faced resistance from local communities due to fears of inadequate environmental management.<sup>50</sup>

### **1.8.3 Regulatory and Approval Challenges**

Investors often face regulatory hurdles that delay or obstruct privatization deals. A case in point is the Nigerian Upstream Petroleum Regulatory Commission's (NUPRC) rejection of Shell's proposed \$1.3 billion sale of its onshore oil assets to the Renaissance

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<sup>47</sup>Okafor, C. (2016). *ALSCON: Again, Supreme Court Sacks Russian Firm, UC RUSAL*. Premium Times Nigeria.

<sup>48</sup>Markson, Isaac (22 May 2021). "[Shady deal that marred sale of Delta Line](#)". International Centre for Investigative Reporting. Retrieved 15 July, 2021.

<sup>49</sup>Markson, Isaac (8 June 2021). "[Sale of Delta Line: We were most qualified among bidders, says GTDC](#)". International Centre for Investigative Reporting. Retrieved 15 July 2021.

<sup>50</sup>"Nigeria moves to restart oil production in vulnerable region after Shell sells much of its business." Associated Press News, <https://apnews.com/article/4ceb760d5d84e8d58b04d24d2d20893a>.

consortium. The NUPRC cited concerns over the consortium's financial and technical capacity to manage the assets and address environmental remediation, leading to uncertainties and potential financial losses for the involved parties.<sup>51</sup>

#### **1.8.4 Economic and Financial Instability**

Nigeria's economic environment poses significant challenges to investment in privatized sectors. High interest rates, currency devaluation and a perceived high-risk business climate deter investors. For example, efforts to develop large-scale solar projects have stalled due to financial and bureaucratic obstacles, despite a high demand for clean energy. This instability hampers the ability of privatized entities to attract necessary capital and achieve operational efficiency.<sup>52</sup> In October 2024, the Central Bank of Nigeria mandated banks to bolster their capital by March 2026 to stabilize amid economic downturns, including a 70% devaluation of the naira and inflation surpassing 30%. This move is reflective of the financial instability affecting the country's investment climate.<sup>53</sup> Regulatory inconsistencies have contributed to a decline in foreign investment inflows, exacerbating the country's currency crisis and prompting multinational companies like Procter & Gamble and GSK Plc to scale back their operations in Nigeria.<sup>54</sup>

#### **1.8.5 Political Interference and Policy Inconsistency**

Frequent changes in government policies and political interference can disrupt the operations of privatized entities. The indefinite suspension of Nigeria Air, the proposed national carrier, exemplifies this issue. Concerns over ownership structure, allegations of

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<sup>51</sup> "Nigeria rejects Shell's \$1.3 billion oil asset sale, report says." Reuters, <https://www.reuters.com/markets/deals/nigeria-rejects-shells-13-billion-oil-asset-sale-thisday-reports-2024-10-16/>.

<sup>52</sup> "Nigerians press for solar jobs and electricity, with little success." Associated Press News, <https://apnews.com/article/cf157e9b321fd1ad8ad5e92f7b5d3355>.

<sup>53</sup> Adebayo, O. (2024). Nigeria's Banks Ordered to Boost Capital Amid Economic Turmoil. Financial Times.

<sup>54</sup> MacDonald, G. (2024). *Shell's Setback Upsets Nigeria's Quest to Lure Investment*. Reuters.

fraud and legal challenges have led to the project's suspension, showing the impact of political and policy instability on investment in privatized sectors.<sup>55</sup>

While privatization aims to stimulate investment and improve efficiency in Nigeria, challenges such as corruption, environmental concerns, regulatory hurdles, economic instability and political interference have hindered its success. Addressing these issues is crucial to creating a conducive environment for investment and maximizing the benefits of privatization.

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<sup>55</sup>Press, Fellow (2018-09-19). "[National Carrier: Nigerian Govt suspends Nigeria Air - Fellow Press](#)". Fellow Press. Retrieved 22 May, 2025.

## CHAPTER TWO

### PRIVATIZATION: AN ACADEMIC PERSPECTIVE

#### 2.1 Introduction

Privatization – the transfer of ownership or management of enterprises from the public to the private sector – has been central to Nigeria’s reform agenda since the late 1980s. Its advocates argue that by realigning incentives through private property rights, governments can improve operational performance, mobilize investment and relieve fiscal burdens.<sup>1</sup> Critics, however, warn of regulatory capture, social dislocation and uneven efficiency gains.<sup>2</sup> This study shall now proceed to consider a multi-theoretical framework drawing on Property Rights Theory, Public Choice Theory, Principal-Agent Theory and Institutional Economics to explain efficiency outcomes. We shall clarify key efficiency concepts, trace the historical evolution of Nigeria’s privatization policy, review the empirical literature, examine efficiency metrics, highlight sectoral case studies (power, telecoms, aviation), then discuss criticisms and counterarguments. This section will end with synthesized findings, highlighted gaps and policy recommendations.

#### 2.2 Theoretical Framework

Some general legal and economic theories which have been distilled for analysis of privatization in application are as follows:

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<sup>1</sup> Alchian AA. & Demsetz H, ‘Production, Information Costs, and Economic Organization,’ *American Economic Review* 62(5) (1972): 777. <https://www.jstor.org/stable/1815199> accessed 18th March, 2025

<sup>2</sup> Chottenpanda A, *Conceptual Framework for Analyzing Labour Issues in Privatization, ILO Discussion Paper DP/114/2000* (Geneva: ILO, 2000), 12. [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_emp/@emp\\_ent/@coop/documents/publication/wcms\\_578683.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_emp/@emp_ent/@coop/documents/publication/wcms_578683.pdf). accessed 18th March, 2025

1. *Property Rights Theory*: Property Rights Theory posits that clearly defined and enforceable ownership rights are a precondition for efficient resource allocation.<sup>3</sup> Under public ownership, diffused control and weak budgetary constraints can lead to “X-inefficiencies” where firms fail to minimize costs.<sup>4</sup> Privatization, by vesting residual claims in private owners, aligns managerial incentives with profit maximization, thus fostering cost-minimizing behaviour and output optimization.<sup>5</sup>
2. *Public Choice Theory*: Public Choice Theory examines how self-interested behaviour by bureaucrats and politicians can skew public enterprise performance.<sup>6</sup> Without market discipline, public managers may pursue personal or political objectives such as enlarging the workforce or inflating budgets rather than efficiency.<sup>7</sup> Privatization introduces competition and shareholder oversight, curbing such bureaucratic excesses.<sup>8</sup>
3. *Principal–Agent Theory*: The Principal–Agent framework highlights information asymmetry and incentive misalignment when principals (the state) delegate

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<sup>3</sup> Coase, RH, ‘The Problem of Social Cost’, *Journal of Law and Economics* 3(1) (1960): 10. <https://www.sfu.ca/~wainwrig/Econ400/coase-socialcost.pdf>

<sup>4</sup> Friedman JW, *The Microeconomics of Public Choice*, (Cheltenham: Edward Elgar, 2004), 45. <https://ideas.repec.org/e/c/pfr15.html> accessed on March 2025.

<sup>5</sup> Jensen MC. & Meckling WH, “Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure,” *Journal of Financial Economics* 3(4) (1976): 305. <https://www.scirp.org/reference/referencespapers?referenceid=2169598>. Accessed 15<sup>th</sup> March, 2025.

<sup>6</sup>Niskanen WA, *Bureaucracy and Representative Government* (Chicago: Aldine-Atherton, 1971), 23. Accessed on 19<sup>th</sup> March, 2025.

<sup>7</sup> Tullock G, ‘Why So Much Stability in Public Policy’ in *Politics Without Romance*, (Pittsburgh: Univ. of Pittsburgh Press, 1987), 67.

<sup>8</sup> Parker D. Parker, ‘Privatization in Developing Countries: A Survey of the Evidence and the Impact on Growth and Poverty,’ *Journal of Development Studies* 40(8) (2004): 55. [https://www.google.com/search?sca\\_esv=9956c2809c48c428&rlz=1C1GCEU\\_enNG1161NG1161&sxsrf=AE3Ti\\_fPIo-bRqZxW92dqRgvXoWtsBy0HNw:1748798555075&q=Parker+D.+Parker,+Privatization+in+Developing+Countries:+A+Survey+of+the+Evidence+and+the+Impact+on+Growth+and+Poverty,+Journal+of+Development+Studies&sa=X&ved=2ahUKewjExKKI3tCNAxUXVKEAHbW\\_NIAQgwN6BAgNEAE](https://www.google.com/search?sca_esv=9956c2809c48c428&rlz=1C1GCEU_enNG1161NG1161&sxsrf=AE3Ti_fPIo-bRqZxW92dqRgvXoWtsBy0HNw:1748798555075&q=Parker+D.+Parker,+Privatization+in+Developing+Countries:+A+Survey+of+the+Evidence+and+the+Impact+on+Growth+and+Poverty,+Journal+of+Development+Studies&sa=X&ved=2ahUKewjExKKI3tCNAxUXVKEAHbW_NIAQgwN6BAgNEAE) accessed on 25<sup>th</sup> March 2025

management to agents (public enterprise executives).<sup>9</sup> Private ownership restructures this relationship: agents become accountable to shareholders and face stronger performance monitoring, reducing agency costs and shirking.<sup>10</sup> However, if regulatory mechanisms are weak, new agents may still pursue opportunistic behaviour, nullifying efficiency gains.<sup>11</sup>

4. *Institutional Economics and Path Dependence*: Institutional Economics emphasizes how formal rules (laws, regulations) and informal norms shape organizational outcomes.<sup>12</sup> Nigeria's legacy of bureaucratic centralization and politicized appointments can persist post-privatization, constraining the enforcement of contracts and shaping firm behaviour.<sup>13</sup> Path dependence suggests that initial institutional configurations such as weak judiciary capacity or opaque regulatory frameworks can lock in inefficiencies, even under private ownership.<sup>14</sup>
5. *New Public Management (NPM)*: The New Public Management (NPM) theory emerged in the late 20th century as a reform agenda that sought to reshape the public sector by infusing it with private sector management principles. Central to NPM is the notion that public service delivery can be made more efficient and effective by adopting the organizational techniques, performance metrics and market mechanisms

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<sup>9</sup> Ross S, 'The Economic Theory of Agency: The Principal's Problem,' *American Economic Review* 63(2) (1973): 134. Available at <https://www.jstor.org/stable/1817064>. Accessed 2nd March, 2025

<sup>10</sup> Smith, PC "Ownership, Control and the Economics of the Firm," in *The Economic Analysis of Corporate Law*, ed. K.J. Hylton (Cheltenham: Edward Elgar, 2014), 102. [https://www.e-elgar.com/shop/gbp/corporate-law-and-economics-9781847207289.html?srsId=AfmBOopoZWb1L-vCQklsICUJulcaEd6hi938rVGX7JrZevH0JrHE7\\_TG](https://www.e-elgar.com/shop/gbp/corporate-law-and-economics-9781847207289.html?srsId=AfmBOopoZWb1L-vCQklsICUJulcaEd6hi938rVGX7JrZevH0JrHE7_TG) Accessed 25<sup>th</sup> March, 2025

<sup>11</sup> Udeh E, 'Regulatory Capacity and Service Delivery in Nigerian Privatized Utilities,' *Journal of African Policy Studies* 5 (2020): 47.

<sup>12</sup> North DC, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge Univ. Press, 1990), 32.

<sup>13</sup> Omotola, JA. 'The Legal Dimensions of Privatization in Nigeria,' in *Essays in Honour of Justice Niki Tobi* (Abuja: Nigerian Law Publications, 2006), 264.

<sup>14</sup> David PA, 'Clio and the Economics of QWERTY' *American Economic Review* 75(2) (1985): 332.

used in the corporate world. This theoretical shift found expression in a range of reforms including decentralization, outsourcing, managerial accountability, and most notably, privatization.

NPM theorists argue that government agencies tend to be bureaucratic, inefficient and unresponsive to citizens' needs, largely because they lack competition and profit motivation. Privatization, from this perspective, is a mechanism to inject market discipline into public service delivery, thereby increasing innovation, cost-efficiency and customer-orientation.<sup>15</sup> Hood describes NPM as a shift “from rowing to steering” in government, that is, a reorientation from direct service provision to enabling and regulating service delivery through non-state actors.<sup>16</sup> NPM was notably influential in the United Kingdom under Margaret Thatcher and in the United States under Ronald Reagan, where privatization became a cornerstone of public sector reform. In developing countries, particularly under the auspices of donor agencies and international financial institutions, NPM principles were often exported as conditionality tied to structural adjustment programmes.<sup>17</sup> Critics, however, point out that the assumption that the private sector is inherently more efficient than the public sector is not universally valid. Moreover, in sectors where social equity, accessibility and public accountability are paramount (such as health, education and water supply), privatization may compromise long-term developmental goals.<sup>18</sup>

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<sup>15</sup> Christopher Pollitt and Geert Bouckaert, *Public Management Reform: A Comparative Analysis* (Oxford University Press 2011) 33–36.

<sup>16</sup> Christopher Hood, “A Public Management for All Seasons?” (1991) 69 *Public Administration* 3, 5–6.

<sup>17</sup> Barbara Nunberg, *Structural Adjustment and Public Administration: The Bank's Experience* (World Bank, 1989) 9.

<sup>18</sup> Joseph E. Stiglitz, *Globalization and Its Discontents* (Penguin, 2002) 55. Available at [https://scholar.google.com/scholar?q=Joseph+E.+Stiglitz,+Globalization+and+Its+Discontents+\(Penguin,+2002\)+55&hl=en&as\\_sdt=0&as\\_vis=1&oi=scholart](https://scholar.google.com/scholar?q=Joseph+E.+Stiglitz,+Globalization+and+Its+Discontents+(Penguin,+2002)+55&hl=en&as_sdt=0&as_vis=1&oi=scholart). Accessed on 20<sup>th</sup> March, 2025

6. *Neo-Liberalism*: Closely aligned with NPM is the broader ideological framework of neo-liberalism, which advocates minimal state intervention in the economy, deregulation, fiscal austerity and an overarching faith in free markets. In this context, privatization is not merely a management tool but a political and economic project aimed at redefining the role of the state. Neo-liberal theorists posit that public ownership of enterprises distorts market efficiency by shielding them from competitive pressures, promoting rent-seeking behaviour and diverting scarce public resources.<sup>19</sup> The privatization of State-Owned Enterprises (SOEs), from this view, is necessary to eliminate inefficiencies, expand capital markets, reduce fiscal burdens and attract foreign direct investment. It also serves to promote a “property-owning democracy” by widening share ownership.<sup>20</sup>

This ideological framework was particularly influential in shaping the policy directions of multilateral agencies such as the International Monetary Fund (IMF) and the World Bank. Under the Structural Adjustment Programmes of the 1980s and 1990s, neo-liberal policies, including privatization, were imposed on many developing countries, including Nigeria, India and Brazil, as preconditions for financial assistance.<sup>21</sup>

Nevertheless, the neo-liberal model has come under intense scrutiny for exacerbating inequality, weakening state capacity and prioritizing economic growth over social

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<sup>19</sup> Milton Friedman, *Capitalism and Freedom* (University of Chicago Press, 1962) 28–35.

<sup>20</sup>*Ibid.*, 36.

<sup>21</sup> John Nellis, “Privatization in Africa: What Has Happened? What Is to Be Done?” (Centre for Global Development Working Paper No. 25, 2003) 2–4. Available at [https://www.cgdev.org/sites/default/files/6928\\_file\\_WP\\_87.pdf](https://www.cgdev.org/sites/default/files/6928_file_WP_87.pdf). accessed on 25th March, 2025

welfare. In many developing countries, privatization has led to asset concentration, job losses and a deterioration in the quality of essential services.<sup>22</sup>

7. *Developmental State Theory*: In contrast to the neo-liberal paradigm, Developmental State Theory presents an alternative conceptualization of the role of the state in economic transformation. Originating from empirical studies of East Asian economies such as Japan, South Korea and Singapore, the developmental state is characterized by strong state intervention, a competent bureaucracy, and strategic planning aimed at industrialization and structural transformation.<sup>23</sup>

Within this framework, privatization is not rejected outright but is approached pragmatically. The state may privatize underperforming or non-strategic enterprises while retaining control over “commanding heights” of the economy such as energy, transport and telecommunications. The rationale is that premature or ideologically driven privatization could undermine long-term developmental goals and leave essential sectors vulnerable to market failures or foreign control.<sup>24</sup>

A key insight from Developmental State Theory is the importance of sequencing and capacity. Privatization should occur only when adequate regulatory institutions, competitive markets and social safety nets are in place. Otherwise, the risk of replacing state monopoly with private monopoly becomes high, especially in sectors with high barriers to entry.<sup>25</sup>

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<sup>22</sup> Ha-Joon Chang, *Kicking Away the Ladder: ‘Development Strategy in Historical Perspective’* (Anthem Press, 2002) 97–102.

<sup>23</sup> Chalmers Johnson, *MITI and the Japanese Miracle: ‘The Growth of Industrial Policy, 1925–1975’* (Stanford University Press, 1982) 17.

<sup>24</sup> *Ibid.*, 19.

<sup>25</sup> Peter Evans, *Embedded Autonomy: ‘States and Industrial Transformation’* (Princeton University Press, 1995) 45–47.

Countries like South Korea and, to some extent, South Africa, have demonstrated selective and strategic privatization within a broader framework of industrial policy and national development planning. This stands in contrast to the sweeping, donor-driven privatizations witnessed in many African countries such as Nigeria.<sup>26</sup>

### 2.3 Conceptual Clarifications

To assess the efficiency of privatization, it is crucial to delineate the distinct forms of economic efficiency and their relevance to public enterprise reform.

1. *Allocative Efficiency*: Allocative efficiency occurs when resources are distributed such that no one can be made better off without making someone else worse off i.e., the marginal rate of substitution equals the marginal rate of transformation in production.<sup>27</sup> In privatization, allocative efficiency is realized if enterprises adjust output and pricing to reflect consumer preferences and resource scarcity rather than political directives or budgetary allocations.<sup>28</sup>
2. *Productive Efficiency*: Productive efficiency refers to producing given outputs at the lowest possible cost, lying on the production possibility frontier.<sup>29</sup> Under public ownership, “X-inefficiencies” often arise from weak budget constraints and absence of profit motives.<sup>30</sup> Privatization is theorized to eliminate these inefficiencies by

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<sup>26</sup> Thandika Mkandawire, “Thinking About Developmental States in Africa” (2001) 25(10) Cambridge Journal of Economics 289–313. Available at <https://academic.oup.com/cje/article-abstract/25/3/289/1729863> Accessed on 25th March, 2025

<sup>27</sup> Varian HR., Intermediate Microeconomics: ‘A Modern Approach’, 8th ed. (New York: W.W. Norton, 2014), 197. Available at [https://faculty.ksu.edu.sa/sites/default/files/microeco-\\_varian.pdf](https://faculty.ksu.edu.sa/sites/default/files/microeco-_varian.pdf) Accessed on 27th March, 2025

<sup>28</sup> Lipsey RG. & Lancaster, K ‘The General Theory of Second Best,” Review of Economic Studies 24(1) (1956): 11. Available at <https://academic.oup.com/restud/article-abstract/24/1/11/1542458>. Accessed 25th March, 2025

<sup>29</sup> Besanko D. Dranove D, Shanley M. & Schaefer S., Economics of Strategy, 7th ed. (Hoboken, NJ: Wiley, 2019), 102. <https://www.amazon.com/Economics-Strategy-7th-David-Dranove-ebook/dp/B01AKSZ952>. Accessed on 27<sup>th</sup> March, 2025.

<sup>30</sup> J.W. Friedman, The Microeconomics of Public Choice (Cheltenham: Edward Elgar, 2004), 45. Available at <https://www.e-elgar.com/shop/usd/public-choice-theory->

subjecting firms to competitive pressures and profit incentives, thereby shifting operations toward the frontier.<sup>31</sup>

3. *Dynamic Efficiency*: Dynamic efficiency captures an economy's ability to improve products, processes and technologies over time through innovation and investment.<sup>32</sup> Arrow's seminal work argues that private firms, driven by prospective rents from innovation, are more likely to invest in research and development than public monopolies.<sup>33</sup> Consequently, effective privatization should foster not only cost reductions but also continuous innovation and long-term growth.
4. *Efficiency versus Equity and Effectiveness*: While privatization is often lauded for efficiency gains, it may compromise equity by raising prices or reducing employment for instance.<sup>34</sup> Moreover, achieving allocative, productive and dynamic efficiency does not guarantee overall effectiveness in social or developmental terms. Hence, a comprehensive evaluation must consider trade-offs between efficiency, equity and broader policy objectives.<sup>35</sup>

## 2.4 Historical Overview

Nigeria's privatization journey can be traced through three distinct phases, each shaped by domestic imperatives and global policy trends.

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[9781852781606.html?srsId=AfmBOopQ5\\_YIE8IpUjvsbqlc3U-QkioA8tQtno3OmgVCEzsHKeofMvel](https://www.sciencedirect.com/science/article/pii/S0304405X7690026X).

Accessed on 25<sup>th</sup> March, 2025.

<sup>31</sup> Jensen MC. & Meckling, WH. 'Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure,' *Journal of Financial Economics* 3(4) (1976): 305. Available at

<https://www.sciencedirect.com/science/article/pii/S0304405X7690026X> Accessed on 25<sup>th</sup> March, 2025.

<sup>32</sup> Schumpeter J, *Capitalism, Socialism and Democracy* (New York: Harper & Brothers, 1942), 84. <https://periferiaactiva.wordpress.com/wp-content/uploads/2015/08/joseph-schumpeter-capitalism-socialism-and-democracy-2006.pdf> Accessed on 12<sup>th</sup> March, 2025.

<sup>33</sup> Arrow KJ, 'Economic Welfare and the Allocation of Resources for Invention' in *The Rate and Direction of Inventive Activity*, ed. R.R. Nelson (Princeton: Princeton Univ. Press, 1962), 609.

<sup>34</sup> Samuelson PA. & Nordhaus WD. *Economics*, 19<sup>th</sup> ed. (New York: McGraw-Hill, 2010), 549.

<sup>35</sup> Amundsen B 'Good Governance in Practice: A Survey Report of 15 OECD Countries,' *Public Administration and Development* 36(4) (2016): 293.

1. *Pre-1988*: This was characterized by State dominance and early reforms at independence (1960) when the Nigerian government inherited a modest portfolio of SOEs in utilities, transportation and manufacturing.<sup>36</sup> By the 1970s, expanding oil revenues spurred a dramatic increase in SOE creation, often with overlapping mandates and weak governance structures.<sup>37</sup> Studies from this era document chronic underinvestment, political interference in appointments and bloated payrolls—symptoms of X-inefficiency and misallocation of resources.<sup>38</sup>
2. *1988–1998*: This period was all about the Structural Adjustment and Initial Privatization Decree. Facing fiscal crisis and pressure from the International Monetary Fund, Nigeria adopted the Structural Adjustment Programme in 1986. Two years later, the Privatisation and Commercialization Decree No. 25 of 1988 formally established the National Council on Privatization (NCP) and the Bureau of Public Enterprises (BPE) to design and execute divestiture.<sup>39</sup> Early transactions focused on minor assets and commercializing rather than outright divestment, reflecting political caution.<sup>40</sup> By 1993, only 22 enterprises had been partially or wholly privatized,

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<sup>36</sup> Okonkwo C, *Public Enterprises and Government Policy in Nigeria* (Lagos: University Press, 2014), 22.

<sup>37</sup> Adegbite A, 'Public Enterprises in Nigeria: A Retrospective Analysis,' *Journal of Business Administration* 18(2) (2001): 12. <https://www.research.ed.ac.uk/files/143975704/AdegbiteEtACG2020CorporateSocialResponsibilityStrategiesInNigeria.pdf>. accessed on 25th March, 2025

<sup>38</sup> E. Ezeani, 'Assessing Public Sector Performance in Nigeria: The Case of State-Owned Enterprises,' *African Journal of Economic Policy* 5(1) (1998): 68. <https://www.ajol.info/index.php/ajpas/article/view/284436/268356>. Accessed on March, 2025.

<sup>39</sup> Federal Republic of Nigeria, "Privatisation and Commercialization Decree No. 25" (1988), s. 1. <https://nigerianlawguru.com/wp-content/uploads/2024/06/PRIVATISATION-AND-COMMERCIALISATION.pdf>. Accessed 14th March, 2025.

<sup>40</sup> N. Chukwuma, 'Public Enterprises Reform in Nigeria: Legal and Policy Issues,' *African Journal of Legal Studies* 11 (2018): 21. <https://brill.com/view/journals/ajls/ajls-overview.xml?language=en&srsItd=AfmBOop-e7EDFIRVfQZeRWlgpRfdsmkYskTYkZpForglOv52kukEhqB>. Accessed 25<sup>th</sup> March, 2025.

yielding mixed efficiency outcomes due to valuation controversies and regulatory gaps.<sup>41</sup>

3. *1999–Present*: This era has been focused on Democratic Renewal and Legislative Consolidation with the return to civilian rule in 1999 thus reinvigorating privatization efforts. The Public Enterprises (Privatisation and Commercialization) Act, Cap. P38 LFN 2004, codified procedures for sectoral sales, valuation standards and post-sale monitoring.<sup>42</sup> Major transactions included the telecommunications sector (NITEL, privatized 2001) and power sector reforms culminating in the unbundling of PHCN (2013).<sup>43</sup> Empirical evidence shows varying efficiency impacts while telecom liberalization produced significant service improvements,<sup>44</sup> power sector performance remained constrained by regulatory deficiencies and underinvestment.<sup>45</sup>

## 2.5 Empirical Review

An empirical evaluation of privatization's efficiency in Nigeria must balance theoretical assumptions against observable outcomes across various sectors. This section draws on sector-specific case studies, performance audits and econometric findings to assess the extent to which privatization improved efficiency.

1. *Telecommunications Sector; The Poster Child of Reform*: Perhaps the most celebrated outcome of privatization in Nigeria is the transformation of the telecommunications industry following the divestiture of Nigerian Telecommunications Limited (NITEL)

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<sup>41</sup> Omotola, J.A. "The Legal Dimensions of Privatization in Nigeria," in Essays in Honour of Justice Niki Tobi (Abuja: Nigerian Law Publications, 2006), 263.

<sup>42</sup> Public Enterprises (Privatisation and Commercialization) Act, Cap. P38, LFN 2004, ss. 1–3.

<sup>43</sup> NERC, 2013 Power Sector Unbundling Report (Abuja: Nigerian Electricity Regulatory Commission, 2014), 5.

<sup>44</sup> Ajayi A. & Ojo, T. Privatization, Policy Failures, and the Nigerian Telecommunications Sector (Ibadan: Spectrum Books, 2017), 87.

<sup>45</sup> Udeh, E. 'Regulatory Capacity and Service Delivery in Nigerian Privatized Utilities,' Journal of African Policy Studies 5 (2020): 56. <https://journals.unizik.edu.ng/wajsd/article/download/3303/2679/7771>. Accessed on 29<sup>th</sup> March, 2025.

and liberalization of the sector in 2001. Prior to reforms, Nigeria had a tele-density of 0.4 lines per 100 people, with only about 400,000 functional lines nationwide and service largely restricted to elites and urban centres.<sup>46</sup> After liberalization, private entrants such as MTN, Glo, and Airtel invested heavily in infrastructure, resulting in exponential growth.

By 2019, tele-density had risen to 91.1 lines per 100 inhabitants, and the number of active subscribers had exceeded 180 million.<sup>47</sup> Beyond access, privatization fostered competition, reduced call tariffs and improved service quality. Ajayi and Ojo attribute these gains to market liberalization, the profit motive of private firms, and robust (if evolving) regulatory oversight.<sup>48</sup> However, challenges such as right-of-way disputes and tax multiplicity still constrain sectoral efficiency.<sup>49</sup>

**Efficiency Score:** High privatization led to allocative and dynamic efficiency gains via competition, innovation and infrastructure expansion.

2. *Electricity Sector; Unfinished Business:* In contrast to telecoms, the privatization of Nigeria's electricity industry under the 2013 power sector reform has yielded limited efficiency dividends. The unbundling of the Power Holding Company of Nigeria (PHCN) into generation and distribution companies (GenCos and DisCos) was premised on attracting private capital and managerial competence. Yet, nearly a decade later, the sector is plagued by inefficiencies in energy delivery, billing and recovery. The National Bureau of Statistics reported in 2021 that Nigeria's installed

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<sup>46</sup> Nigerian Communications Commission, Telecoms Industry Statistics Report (Abuja: NCC, 2001).

<sup>47</sup> Ibid, 2019 edition.

<sup>48</sup> Ibid,

<sup>49</sup> Odukoya M, 'Fiscal and Regulatory Bottlenecks in Nigeria's Telecoms Expansion,' *Nigerian Journal of Economic Reforms* 10(2) (2020): 22.

generation capacity was over 12,000 MW, yet actual output fluctuated around 3,500–4,500 MW due to transmission losses, gas constraints and grid instability.<sup>50</sup> DisCos have also underperformed, with aggregate technical, commercial and collection losses remaining above 40%.<sup>51</sup> Studies by Udeh and Akuru attribute these inefficiencies to inadequate regulatory enforcement, poor metering and flawed privatization design - especially the choice of partial rather than full divestiture.<sup>52</sup>

**Efficiency Score:** Low-to-moderate: While privatization brought some financial discipline and investment, productivity and allocative efficiency remain weak.

3. *Steel and Industrial Manufacturing: A False Start:* Privatization of industrial giants such as Ajaokuta Steel Company and the Nigerian Machine Tools Ltd was largely unsuccessful. Ajaokuta, which consumed over \$8 billion in public funds before partial privatization in 2005, was handed over to Global Steel Holdings but soon became embroiled in contractual disputes and non-performance.<sup>53</sup> The Federal Government eventually revoked the agreement in 2008 after accusations of asset stripping and poor due diligence. The Bureau of Public Enterprises later admitted that the industrial privatizations suffered from weak post-sale monitoring, poor legal frameworks and underwhelming investor performance.<sup>54</sup> The outcome was not only

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<sup>50</sup> National Bureau of Statistics, Annual Power Sector Report (Abuja: NBS, 2021), 4. <https://www.nigerianstat.gov.ng/elibrary/read/1241144> Accessed on 20th March, 2025

<sup>51</sup> NERC, 2022 Annual Report (Abuja: Nigerian Electricity Regulatory Commission, 2023), 23.

<sup>52</sup> E. Udeh, 'Regulatory Capacity and Service Delivery in Nigerian Privatized Utilities,' *Journal of African Policy Studies* 5 (2020): 48–51; P. Akuru, "Electricity Sector Privatization in Nigeria: Realities and Prospects," *Energy Policy Review* 18(1) (2021): 15. <https://journals.unizik.edu.ng/wajsd/article/download/3303/2679/7771>. Accessed on 15th March, 2025.

<sup>53</sup> Onwuegbuchi J, 'Ajaokuta Steel: The Ghost of Privatization,' *The Guardian* (March 15, 2019), 6.

<sup>54</sup> Bureau of Public Enterprises, Annual Activity Report (Abuja: BPE, 2015), 34–37. <https://www.bpe.gov.ng/>. Accessed 12<sup>th</sup> March, 2025.

financial loss but a failure to achieve productive efficiency. Many of the privatized plants remain comatose or repurchased by the government.

**Efficiency Score:** Very low: Privatization in this sector failed due to flawed processes, regulatory lapses and investor default.

## 2.6 Measuring Efficiency

Assessing efficiency post-privatization involves deploying empirical indicators rooted in the earlier conceptual frameworks.

### 1. *Allocative Efficiency Indicators*

**Price responsiveness:** In competitive privatized markets (e.g telecoms), lower tariffs and differentiated service plans are signs of allocative efficiency.<sup>55</sup>

**Consumer coverage and equity:** Rise in service penetration (tele-density, electricity access) reflects resource reallocation to meet demand.

### 2. *Productive Efficiency Indicators*

**Cost-to-output ratio:** Reduction in operating costs per output unit (e.g cost per MW or per call-minute) signals productive gains.<sup>56</sup>

**Labor productivity:** Output per employee often improved post-privatization due to staff rationalization.

### 3. *Dynamic Efficiency Indicators*

**Capital investment:** Volume of new private sector investment in R&D, infrastructure and technology upgrades.

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<sup>55</sup> Besanko D. et al., *Economics of Strategy*, supra note 17, 114–117.

<sup>56</sup>Ezeani, supra note 26, at 71.

**Innovation metrics:** Service diversity, adoption of new technology (e.g mobile money, smart meters etc.)

Empirical studies have applied these criteria to Nigerian sectors. For instance, Ayoade's 2020 econometric study of 25 privatized enterprises from 2000–2015 found significant improvements in net operating margin and return on assets, particularly in telecommunications and financial services.<sup>57</sup> However, sectors like steel and electricity lagged behind, indicating sectorial variation in privatization's efficiency outcomes.

## 2.7 Theoretical Framework in Operation

The efficiency of privatization, especially in transitional and developing economies like Nigeria, is best understood through an interdisciplinary theoretical lens. Three dominant frameworks provide explanatory power:

1. *Public Choice Theory:* This theory, pioneered by Buchanan and Tullock, views government actors as self-interested individuals rather than benevolent planners.<sup>58</sup> Public choice theory contends that public enterprises are prone to inefficiency because managers are not incentivized to minimize costs or maximize service quality thus bureaucrats serve political goals rather than economic rationality.

In Nigeria, where rent-seeking and corruption have historically shaped public enterprise management, public choice theory aptly explains the chronic inefficiencies preceding

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<sup>57</sup> Ayoade M, 'Empirical Assessment of Post-Privatization Efficiency in Nigeria,' *West African Journal of Economic Research* 8(3) (2020): 25–43.

<sup>58</sup> Buchanan J.M. & Tullock G, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1962).

privatization. The shift to private ownership is assumed to limit the scope for political patronage and enforce financial discipline.<sup>59</sup>

2. *Principal–Agent Theory*: This theory addresses the delegation problem between a principal (government) and an agent (enterprise managers or private owners). Under public ownership, the absence of effective monitoring and misaligned incentives creates agency slack. Privatization seeks to correct this by replacing passive political oversight with shareholder discipline and market scrutiny.<sup>60</sup>

However, Nigeria’s privatization design sometimes replaced public inefficiencies with private monopolies without strong regulatory counterweights, leading to persistent agency problems in sectors like power and steel.<sup>61</sup>

3. *Property Rights Theory*: Alchian and Demsetz, and later Hart and Moore, argue that private ownership confers clearer residual claims on assets, enhancing incentives for efficiency, innovation and cost control.<sup>62</sup> Privatization therefore, reallocates property rights from diffuse public ownership to concentrated private control thus enhancing accountability.

While the theory holds in Nigeria’s telecoms sector, where competition and private property rights aligned with efficiency, it falters in sectors where privatization was nominal or rights enforcement remained weak, e.g electricity and steel.

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<sup>59</sup> Akinola O.A., *Politics of Public Sector Reform in Nigeria* (Lagos: Malthouse, 2021), 44.

<sup>60</sup> Sappington, D.E.M., “Incentives in Principal-Agent Relationships,” *Journal of Economic Perspectives* 5(2) (1991): 45–66.

<sup>61</sup> Ezeani, *supra* note 26, at 74–75.

<sup>62</sup> Alchian Y. & Demsetz H., ‘Production, Information Costs, and Economic Organization,’ *American Economic Review* 62(5) (1972): 777–795.

**Synthesis:** These theories collectively explain both the premise and pitfalls of privatization in Nigeria — efficiency gains where incentives and oversight were realigned and inefficiencies where structural reforms were incomplete.

## 2.8 Comparative Jurisdictions

Cross-jurisdictional analysis sharpens Nigeria’s self-reflection by highlighting alternative models of privatization.

### *A) Angola: A Cautious, Centralized Approach*

Like Nigeria, Angola embarked on privatization in the 2000s but only intensified the process after 2018 under President João Lourenço. The government implemented the *PROPRIV* programme, aimed at privatizing over 190 state-owned entities through IPOs, tenders and asset transfers.<sup>63</sup>

Key features include:

- Centralized execution through IGAPE (Institute for Management of State Assets).
- Clear fiscal objectives: reduce state burden, attract investment and improve efficiency.
- Phased and transparent processes starting with non-strategic sectors.

Results have been mixed so far as sectors like banking and agribusiness saw moderate improvements while core sectors like oil and transport remain state-dominated. Angola’s slow but structured approach suggests that sequencing, transparency and institutional capacity are critical to success.<sup>64</sup>

### *B) The Netherlands: Pragmatic Privatization with Social Safeguards*

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<sup>63</sup> IGAPE, Relatório de Execução do Programa de Privatizações (Luanda: IGAPE, 2022).

<sup>64</sup> Figueiredo T. ‘Angola’s Privatization Reforms: Strategy and Limits’. *African Affairs* 121(484) (2022): 221–242.

The Netherlands embraced privatization in the 1980s–1990s, especially in telecommunications, postal services and energy. But unlike Nigeria or Angola, it adopted a stakeholder model emphasizing:

- Strong regulatory bodies (e.g ACM).
- Competitive market design.
- Consumer protection and public interest safeguards.

For instance, *KPN Telecom* was gradually privatized with legislative oversight and preserved universal service obligations.<sup>65</sup> Even energy sector reforms maintained public ownership of grids while allowing private generation and retail competition.

**Lesson:** Privatization without effective regulation is risky. The Dutch model balances efficiency and equity via phased liberalization, institutional capacity and robust oversight mechanisms.

## 2.9 Synthesis of Findings

1. Privatization in Nigeria has yielded uneven outcomes in different sectors. While telecoms demonstrate the potential for efficiency, electricity and heavy duty industry reveal the costs of poor design and weak regulation.
2. Theoretical insights from principal-agent and property rights frameworks show that incentive realignment is critical, but only effective when coupled with institutional enforcement.
3. Comparative insights from Angola and the Netherlands reveal the value of sequencing, transparency and robust regulatory capacity.

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<sup>65</sup> OECD, *Privatisation in the 21st Century: Recent Experiences of OECD Countries* (Paris: OECD Publishing, 2009), 102–106.

## **2.10 Conclusion**

Privatization in Nigeria is neither a panacea nor a poison. Its success depends on nuanced design, credible institutions, sectorial strategies and sustained political will. While evidence shows that privatization can significantly improve efficiency as in telecommunications, failure to couple it with structural reforms has produced persistent inefficiencies elsewhere.

The challenge then is not whether to privatize, but how. The country must abandon cosmetic divestitures and embrace a model of privatization as strategic transformation guided by theory, anchored in institutions and measured by results.

## CHAPTER THREE

### THE PRIVATIZATION FRAMEWORK IN NIGERIA

#### 3.1 The Process of Privatization in Nigeria

Privatization in Nigeria is primarily guided by the Public Enterprises (Privatization and Commercialization) Act of 1999, which established the Bureau of Public Enterprises (BPE) and the National Council on Privatization (NCP). The NCP provides policy direction, while the BPE implements the programme, overseeing the sale or transfer of public assets to private entities. Earlier, the Privatization and Commercialization Decree No. 25 of 1988 laid the groundwork, emphasizing the restructuring of State-Owned Enterprises (S.O.E.s) to foster efficiency and reduce dependence on the national treasury,<sup>1</sup> improve the efficiency and performance of SOEs, foster competition; thus, encouraging private sector-led growth and broaden the ownership of enterprises among Nigerians.<sup>2</sup>The privatization process involves several critical steps:

##### *a) Identification of Enterprises*

The first step is the classification of enterprises to determine those suitable for privatization or commercialization. Public enterprises are assessed based on their strategic importance, economic viability and operational status. For example, enterprises are categorized into those for full or partial privatization or commercialization based on their ability to operate profitably.

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<sup>1</sup>Public Enterprises (Privatization and Commercialization) Act, Cap P38, Laws of the Federation of Nigeria 2004.

<sup>2</sup>Anyebe, A.A. (2018). "An Assessment of the Performance of Public Enterprise Sector in Nigeria." *International Journal of Political Science*, vol. 4, no. 2, pp. 41-46.

*b) Asset Valuation and Preparation*

Before sale, an accurate valuation of the assets is carried out. This involves hiring financial consultants, valuers and legal advisers to ensure transparency. The valuation process considers the enterprise's assets, liabilities and market potential. This can pose a challenge if not properly done, as seen in *Abuja International Hotels Limited & Anor v. Bureau of Public Enterprises & Anor*,<sup>3</sup> the court addressed issues of asset valuation, fairness in the sale process and the lack of transparency in privatization deals.<sup>4</sup>

*c) Mode of Privatization*

The method of privatization depends on the nature of the enterprise and market conditions. Common methods include:

**Public Offer of Shares (IPO):** Shares of the enterprise are sold through the stock exchange to promote broad ownership and transparency.

**Trade Sale:** Direct sale to a private investor, often used for smaller or underperforming enterprises.

**Asset Sale:** Selling the enterprise's assets, usually for poorly performing entities.

**Management Buy-Out:** Transfer of ownership to the management and employees of the enterprise.

*d) Transaction Execution*

After selecting the privatization mode, the government proceeds with the sale, ensuring compliance with legal and regulatory requirements. Stakeholders, including investment banks and legal advisors, facilitate this process.

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<sup>3</sup>[2022] 4 NWLR (Pt. 1818) 1 (CA).

<sup>4</sup>Obasa, D. (2016). *Asset Valuation and Transparency in Privatization*. Lagos: International Business Law Journal, pp. 48-53.

*e) Post-Transaction Monitoring*

Post-privatization, mechanisms are put in place to monitor the performance of the privatized enterprise, ensuring adherence to the terms of the sale and addressing issues that may arise.<sup>5</sup>

### **3.2 Stakeholders in a Privatization**

The involvement of all major constituents or stakeholders in the privatization process is crucial. The stakeholders differ, depending on whether a single State-Owned Enterprise (SOE) is being privatized or if it is mass privatization. In either case, the government is a key stakeholder, and in most cases, is the major stakeholder and principal agent in the privatization.

Government is concerned about the fiscal impact, and the reduction of the public sector borrowing requirement (PSBR). But they are also concerned about the social and political impacts. Prior to privatization, government is responsible for devising any necessary regulation and for developing labour strategies that secure the support of employees and provide adequate social provision.

The International Labour Organization (ILO) has identified a legion of stakeholders in privatization as identified by Piesse (i.d.). They include politicians, creditors, bureaucrats, local communities, enterprise management, the private sector, local officials, workers, unions etc.<sup>6</sup> Chottenpanda (2000) has grouped the stakeholders into six categories:<sup>7</sup>

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<sup>5</sup>Odiase-Alegimenlen, O. A. "An Evaluation of the Current Privatization Exercise in Nigeria." *Law, Social Justice & Global Development Journal*, vol. 2003, no. 2, 2003. [https://warwick.ac.uk/fac/soc/law/elj/lgd/2003\\_2/odiase](https://warwick.ac.uk/fac/soc/law/elj/lgd/2003_2/odiase)

<sup>6</sup>Piesse, J. and Gutman, G., "The Impact of Privatisation on the Performance of the Agricultural Sector in Argentina," in *Privatisation, Performance and Institutions*, ed. Matthew Martin and Wendy Davies, Edward Elgar Publishing, 1998, pp. 109–127.

<sup>7</sup>Chottenpanda, M., *Conceptual Framework for Analyzing Labour Issues in Privatization*, ILO Discussion Paper DP/114/2000 (International Labour Organization, Geneva, 2000).

1. *The rank and file of the workforce*, whether organized into unions or not. In addition to actual loss of some jobs, they are concerned with the relationship between wage scales in the public and private sector, pensions, seniority and other prerequisites. The case of *SurajuRufai v. Bureau of Public Enterprises &Ors*<sup>8</sup> illustrates the tension that can arise from mass-layoffs owing to a privatization policy.<sup>9</sup>
2. *The leaders of the organized labour*, who are concerned with the preservation of their own power and prestige, which are based ultimately on membership strength and solidarity. Reduced membership as a result of layoffs will inevitably undermine the position of union heads. Involvement of union leadership in the privatization process and open communication will help the union leadership to take at least a wait-and-see attitude towards initial processes of prioritization.
3. *The managers of public sector enterprise being privatized*, who have both labour and management interest. New private owners may seek to replace the entire management team of the former public enterprise or at least the individual members of it. Privatization not only threatens managers with loss of their own jobs, but also even those who are retained may face job insecurity. As a result, management may be as strongly opposed to privatization as is labour, although it is likely to be less vocal in its protest.
4. *The government as a seller of the state-owned public enterprises*: The government stakes in a privatized process and it wants to accomplish it expeditiously with outmajor roadblocks from those who oppose as well from labour. Moreover, in a democratic system, the government may well depend for a significant part of its

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<sup>8</sup> NICN/LA/18/2013, judgment delivered on 4 June, 2018 (unreported).

<sup>9</sup>*Challenges in Privatization of State-Owned Enterprises in Nigeria*. Abuja: Nigerian Economic Law Review, pp. 79-85.

support on organized labour, without of which could mean defeat of the governing party over the issue of privatization.

5. *The prospective buyer, whether individual or shareholder:* The position of labour maybe critical to the decision to buy a privatized firm. If trade unions oppose privatization, they will continue to be a source of problem to the buyers when the buyers later seek to reduce the workforce. The possibility of an indefinite period of strikes, slowdowns and protests that would interrupt production, as would delays caused by labour retraining, greatly diminishes the interests of prospective buyers. Many of these stakeholders, especially the working group (workers, workers representatives or labour unions and managers) feel increased job insecurity and are very vulnerable. In developing economies, this may affect an extended family while in transitional countries, many job-related benefits such as health and child care will be lost. In addition, the public; both as customers and taxpayers, present managers, potential new customers, bureaucrats, politicians, the business sector and communities are likely to be affected.

### **3.3 Legal and Regulatory Framework**

Privatization in Nigeria has evolved through a complex interplay of statutes, regulations and policy instruments designed to transfer public enterprises into private hands, thereby harnessing market efficiencies and reducing the fiscal burden on government. This enhanced analysis delves deeply into the legal and regulatory architecture underpinning privatization, spotlighting statutory provisions, guidelines and institutional mandates.

The cornerstone statute is the *Public Enterprises (Privatization and Commercialization) Act*, Cap. P38, LFN 2004 (PEPCA), as amended by the *Public Enterprises (Privatization*

*and Commercialization) Act (Amendment) Act* No.14 of 2011.<sup>10</sup> PEPCA vests policy-making authority in the National Council on Privatization (NCP) and execution responsibility in the Bureau of Public Enterprises (BPE)<sup>11</sup> as follows:

A) *National Council on Privatization (NCP)*: Constituted under PEPCA s. 1, chaired by the Vice President, and comprising Ministers of Finance, Justice, and other relevant portfolio holders. The NCP approves the privatization/commercialization list (First Schedule), transaction guidelines and valuation criteria.<sup>12</sup>

B) *Bureau of Public Enterprises (BPE)*: Established by PEPCA s.8 as the NCP's Secretariat and executing arm. The BPE issues the *Guidelines for Transaction Execution* (2015), covering due diligence, bid solicitation, evaluation and post transaction monitoring.<sup>13</sup>

PEPCA's First Schedule distinguishes enterprises for full privatization (Part II) from those for partial commercialization (Part I), mandating transparent processes such as open bidding, public advertisement and independent valuation.<sup>14</sup> The Act also requires periodic review of residual government shareholdings and post sale performance audits by the Auditor-General of the Federation under the *Audit Act* 1956 (as amended).<sup>15</sup>

The *Public Procurement Act* 2007 (PPA) intersects with PEPCA by obligating BPE and all government agencies to conduct sales and consultancy contracts through competitive tendering in compliance with PPA Part II, ensuring transparency and value for

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<sup>10</sup> Public Enterprises (Privatization and Commercialization) Act, Cap. P38, LFN 2004; Amendment Act No. 14 of 2011, s. 2.

<sup>11</sup>Ibid., ss. 1, 8.

<sup>12</sup>Ibid., First Schedule, paras 1–3.

<sup>13</sup>Bureau of Public Enterprises, *Guidelines for Transaction Execution* (2015) cls 3.1–3.5.

<sup>14</sup>PEPCA, First Schedule, Part I & II.

<sup>15</sup>Audit Act 1956 (as amended 2010) ss. 5–8.

money.<sup>16</sup>Further, the *Freedom of Information Act* 2011 empowers stakeholders to access BPE transaction documents, enhancing accountability.<sup>17</sup>

Some sector specific statutes supplement PEPCA:

- a) *Electric Power Sector Reform Act* 2005 (EPSRA), which provides for concession guidelines for generation, transmission and distribution companies.<sup>18</sup>
- b) *Nigerian Communications Act* 2003 (NCA) with secondary legislation on spectrum assignment and privatization of NITEL/MTEL.<sup>19</sup>

International best practices have been codified into Nigerian law via national adoption of the *World Bank Guidelines on Privatization* (2000) and the *International Finance Corporation (IFC) Corporate Governance Principles*, both incorporated by reference in BPE subscription agreements.<sup>20</sup>

### 3.4 Regulatory Institutions and Their Mandates

Beyond NCP and BPE, Nigeria's privatization regime relies on several regulatory bodies:

- a. *Securities and Exchange Commission (SEC)*: Under the *Investment and Securities Act* 2007 s. 40–47, SEC regulates the public offer of shares, prospectus content, insider trading and the dematerialization of government-owned shareholdings.<sup>21</sup>
- b. *Corporate Affairs Commission (CAC)*: Enforces CAMA 2020, overseeing incorporation of privatized companies, change of shareholding and filing of post-transaction returns.<sup>22</sup>

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<sup>16</sup>Public Procurement Act 2007, ss. 14–17.

<sup>17</sup>Freedom of Information Act 2011, ss. 1–5.

<sup>18</sup>Electric Power Sector Reform Act 2005, ss. 29–35.

<sup>19</sup>Nigerian Communications Act 2003, ss. 20–22; NCC Subsidiary Legislation on Spectrum Assignment, 2011.

<sup>20</sup>World Bank, *Guidelines on Corporate Governance of State-Owned Enterprises* (2000) paras 4.2–4.5; IFC, *Corporate Governance Principles* (2006).

<sup>21</sup>Investment and Securities Act 2007, ss. 40–47.

<sup>22</sup>Companies and Allied Matters Act 2020, ss. 579–581.

- c. *Nigerian Electricity Regulatory Commission (NERC) and Nigerian Communications Commission (NCC)*: Issue sector-specific licences, tariff approvals and enforce service obligations post-privatization.<sup>23</sup>
- d. *Financial Reporting Council of Nigeria (FRCN)*: Established by the *Financial Reporting Council Act 2011* to enforce corporate governance codes for publicly listed entities, including privatized utilities.<sup>24</sup>
- e. *Anti-Corruption Agencies (EFCC/ICPC)*: Investigate and prosecute irregularities in privatization contracts under the *Economic and Financial Crimes Commission Act 2004* and *ICPC Act 2000*.<sup>25</sup>

Some key regulatory instruments and guidelines are:

- a. *BPE Guidelines for Competitive Bidding (2015)*: Detail bid security, pre-qualification and evaluation criteria, borrowing heavily from UNCITRAL Model Law on Procurement.<sup>26</sup>
- b. *Valuation Manual for Public Enterprises (BPE, 2012)*: Sets out accepted valuation methodologies – discounted cash flow, comparable transactions and net asset value approaches.<sup>27</sup>
- c. *Standard Share Sale and Purchase Agreement (SSPA)*: A BPE template embedding representations, warranties, indemnities and post-closing undertakings, including employee absorption clauses consistent with *Labour Act 2004*, s. 17–20.<sup>28</sup>

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<sup>23</sup>NERC Act 2005 ss. 49–52; NCC Act 2003, ss. 8–10.

<sup>24</sup>Financial Reporting Council Act 2011, ss. 11–14; FRCN Corporate Governance Code for Public Companies 2018.

<sup>25</sup>EFCC Act 2004, ss. 6–8; ICPC Act 2000, ss. 11–13.

<sup>26</sup> BPE, *Guidelines for Competitive Bidding (2015)* cls 2.2–2.9.

<sup>27</sup>Bureau of Public Enterprises, *Valuation Manual for Public Enterprises (2012)* ch 4.

<sup>28</sup>BPE, *Standard Share Sale and Purchase Agreement (SSPA)* cl 5.3 (employee absorption).

### 3.5 Challenges

The Nigerian privatization framework is underpinned by a multi-layered legal regime combining general statutes (PEPCA, PPA, ISA) with sector-specific laws and detailed BPE transaction guidelines. Institutional roles are clearly delineated and international standards have been domesticated. Yet, persistent challenges in enforcement, regulatory capacity and coordination among agencies suggest the need for continual strengthening of oversight mechanisms and capacity building within regulatory bodies. Here are some challenges the model faces in reality:

1. **Executive Rascality and the Highhandedness of MDAs:** Lack of political will leading to bad-faith actions in the privatization process is a major challenge. In *BFI Group Corp. v. Bureau of Public Enterprises*,<sup>29</sup> the Supreme Court judgment and the unwillingness of the BPE to comply highlights the role of executive rascality in defeating the effectiveness of the Nigerian privatization process.<sup>30</sup>
2. **Transparency and Access to Information:** Failure to comply with legal mandates<sup>31</sup> by the B.P.E. and other agencies often limit stakeholder access to full transaction documents, inhibiting public oversight. Even though the law has been settled by *Uzoho & Ors v. National Council of Privatization & Anor*<sup>32</sup> on the fact that the National Council on Privatization was a juristic person capable of suing and being sued, the privatization process still lacks transparency, fails to meet legal

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<sup>29</sup>(2012) 18 NWLR (Pt. 1332) 209 (SC).

<sup>30</sup> See also, Afe, J. (2020). Legal Challenges in Privatization in Nigeria. Lagos: Nigerian Law Review, pp. 45-49.

<sup>31</sup>Public Procurement Act 2007, ss. 14–17; Freedom of Information Act 2011, ss. 1–5.

<sup>32</sup>(2022) LLJR-SC.

- requirements and is usually executed without adequate consultation with key stakeholders, such as employees and local communities.<sup>33</sup>
3. **Valuation Methodology and Asset Pricing:** Despite the PEPCA First Schedule;<sup>34</sup> and the BPE *Valuation Manual* (2012),<sup>35</sup> divergent independent and official valuations lead to perceived undervaluation of assets, eroding public confidence. In *BPE v. Reinsurance Acquisition Group Ltd* (2011) LPELR-4449(CA), the Court of Appeal highlighted the necessity for BPE to disclose its valuation assumptions when adjudicating disputes over share purchase agreements, reinforcing judicial oversight on valuation transparency.<sup>36</sup>
  4. **Regulatory Overlaps and Jurisdictional Ambiguities:** Conflicting mandates among BPE, SEC, CAC and sector regulators complicate compliance and delay transactions.<sup>37</sup>
  5. **Political Interference and Policy Reversals:** Ministerial influence over NCP appointments; ad-hoc policy changes without legislative sanction are rampant.<sup>38</sup> Executive overreach undermines contractual finality and investor certainty. The attempted annulment of Nigerian Steel Rolling Mills' privatization by ministerial directive which had to be overturned in arbitration; reaffirming the principle that administrative fiat cannot nullify concluded contracts absent legislative authority.

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<sup>33</sup>Oguche, T. (2023). *Privatization Processes and Human Rights in Nigeria*. Abuja: Federal Legal Publications, pp. 77-81.

<sup>34</sup>Public Enterprises (Privatization and Commercialization) Act, Cap. P38, LFN 2004, First Schedule.

<sup>35</sup>Bureau of Public Enterprises, *Valuation Manual for Public Enterprises* (2012)

<sup>36</sup>*BPE v. Reinsurance Acquisition Group Ltd* (2011) LPELR-4449(CA).

<sup>37</sup>Investment and Securities Act 2007, s. 43; Also see Companies and Allied Matters Act 2020, ss. 579–581.

<sup>38</sup>Okonkwo C., *Public Enterprises and Government Policy in Nigeria* (Univ. Press, 2014) p. 172.

This is in spite of the fact that the Supreme Court has always reaffirmed that vested contractual rights cannot be abrogated by subsequent executive action.<sup>39</sup>

6. **Capacity Constraints in Regulatory Bodies:** NERC 2018 *Performance Monitoring Report* and BPE staffing reports reveal a whole lot.<sup>40</sup> Understaffed regulators struggle to monitor compliance with post-sale obligations (service quality, investment commitments), leading to weak enforcement. According to Udeh, “regulatory underinvestment results in pervasive breaches of service and investment covenants in privatized utilities.”<sup>41</sup>
7. **Corruption Risks and Anti-Corruption Enforcement:** Despite the existence of the *Economic and Financial Crimes Commission*<sup>42</sup> and the *Independent Corrupt Practices Commission*,<sup>43</sup> there are still cases of irregular consultant awards and no-bid contracts continuing to arise, often escaping timely prosecution. Chukwuma notes that between 2005 and 2015, the EFCC logged over 30 investigations into BPE transactions, but only two led to plea bargains - and none to full trial, illustrating enforcement shortfalls.<sup>44</sup>
8. **Judicial Delays and Forum Shopping:** General courts handle complex privatization disputes without specialized procedures.<sup>45</sup> Lengthy litigation (often 3–7 years) and inconsistent interpretations of public interest vs. sanctity of contract hamper dispute

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<sup>39</sup> See *Attorney-General of the Federation v. Attorney-General of Abia State* [2002] 9 NWLR (Pt. 772) 222,

<sup>40</sup> Electric Power Sector Reform Act 2005, ss. 29–35; Nigerian Electricity Regulatory Commission, 2018 Performance Monitoring Report (2019).

<sup>41</sup> Udeh E., “Regulatory Capacity and Service Delivery in Nigerian Privatized Utilities” (2020) *Journal of African Policy Studies*, Vol. 5, p. 47.

<sup>42</sup> Economic and Financial Crimes Commission Act 2004, ss. 6–8.

<sup>43</sup> Independent Corrupt Practices and Other Related Offences Act 2000, ss. 11–13.

<sup>44</sup> Chukwuma N., “Corruption and Institutional Weaknesses in Nigerian Privatization,” in *Corruption and Governance Reform Journal in Africa* (2017) p. 88.

<sup>45</sup> Ezeani A., “Resolving Commercial Disputes in Nigeria: The Case for Specialized Courts” (2016) *Nigerian Law Review*, Vol. 8, p. 64.

resolution. The case of *BPE v. Reinsurance Acquisition* spanned five years before final appellate judgment.<sup>46</sup> Igbiniedion points out that the absence of a specialized tribunal for economic crimes in privatization matters forces the EFCC to litigate complex valuation and procurement issues in general-jurisdiction courts, where delays and judicial fatigue further weaken outcomes.<sup>47</sup> The case of *National Union of Electricity Employees & Anor v. Bureau of Public Enterprises*<sup>48</sup> also highlights the different jurisdictional challenges. This case highlights the social implications of privatization, particularly in industries where public sector workers are crucial to operations.<sup>49</sup>

### 3.6 Towards a More Efficient Framework; Recommendations

- a. **Enact a Privatization Transparency and Accountability Act:** Amend the Freedom of Information Act to include a specific schedule mandating the Bureau of Public Enterprises (BPE) to publish all transaction documents – evaluation reports, bid submissions, concession agreements - on a publicly accessible portal within 7 days of execution, with statutory sanctions for non-compliance.<sup>50</sup>
- b. **Standardize Valuation Methodology:** All privatization valuations should be required to follow IFRS 13 (“Fair Value Measurement”) and the BPE Valuation Manual (2012). Establish an Independent Valuation Review Panel - appointed by the

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<sup>46</sup> *BPE v. Reinsurance Acquisition Group Ltd (2011) LPELR- 4449(CA)*.

<sup>47</sup> Igbiniedion S., “Public Enterprises Reform in Nigeria: Legal and Policy Issues” (2018) *African Journal of Legal Studies*, Vol. 11, p. 112.

<sup>48</sup> NICN/ABJ/120/2013.

<sup>49</sup> Eze, J. & Ifeanyi, P. (2014). *Labor and Privatization: The Nigerian Experience*. Lagos: Energy Policy Institute, pp. 112-117.

<sup>50</sup> Ayo B., “Privatization and Commercialization in Nigeria: Legal Framework and Challenges,” *Nigerian Journal of Commercial Law Vol. 15 (2019)* p. 42.

President and ratified by the Senate - to audit and certify valuation assumptions before bids are invited.<sup>51</sup>

- c. **Clarify Regulatory Jurisdiction:** Introduce a coordination clause in the Public Enterprises (Privatization & Commercialization) Act (PEPCA) empowering the National Privatization Council to oversee Memoranda of Understanding among BPE, SEC, CAC and sectorial regulators (e.g NERC, NCC). This Council would resolve jurisdictional disputes and issue binding directives on process overlaps.<sup>52</sup>
- d. **Insulate Against Political Interference:** Grant members of the National Council on Privatization fixed, non-renewable tenure (e.g., five years) and require National Assembly approval for any ministerial or executive directives that alter concluded privatization contracts.<sup>53</sup> The case of *Dr. Vincent Akpotahire v. Bureau of Public Enterprises*,<sup>54</sup> highlights the failures of the Bureau of Public Enterprises (BPE) to adhere to the due process in the privatization of certain public enterprises.<sup>55</sup>
- e. **Build Regulatory Capacity:** Increase statutory funding for BPE, NERC, and other sector regulators by at least 50percent to support specialized training, technical assistance and secondment programmes with multilateral institutions. Mandate periodic performance audits of regulatory bodies with findings tabled in the National Assembly.<sup>56</sup>
- f. **Strengthen Anti-Corruption Enforcement:** Establish an Economic Crimes (Privatization) Tribunal under the EFCC Act 2004 with expert panels on

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<sup>51</sup> World Bank, Guidelines on Corporate Governance of State-Owned Enterprises (2000) para. 4.2.

<sup>52</sup> Omotola J.A., "The Legal Dimensions of Privatization in Nigeria," in Essays in Honour of Justice Niki Tobi (2006) p. 263.

<sup>53</sup> Bureau of Public Enterprises, Guidelines for Transaction Execution (2015) cl. 1.5.

<sup>54</sup> NICN/ABJ/09/2018, judgment delivered on 6 June 2018 (unreported).

<sup>55</sup> Lawal, A. (2015). *Privatization and Accountability in Nigeria: Legal Perspectives*. Lagos: Legal Insight Press, pp. 200-206.

<sup>56</sup> Nigerian Electricity Regulatory Commission, 2018 Performance Monitoring Report (2019).

procurement, valuation and contract law. Empower the Tribunal to fast-track cases arising from privatization transactions and issue interim injunctions against asset transfers pending determination.<sup>57</sup>

- g. **Establish Specialized Dispute-Resolution Mechanisms:** Create a Privatization Appeal Tribunal under CAMA 2020 (ss. 579–581) with exclusive jurisdiction over post-sale contractual disputes, governed by expedited hearing rules and limited rights of appeal to the Court of Appeal.<sup>58</sup>
- h. **Mandate Periodic Legislative Review and Stakeholder Engagement:** Require a statutory review of the entire privatization framework every five years - conducted by a joint committee of the National Assembly - with public hearings inviting civil society, investor groups, labour unions and academic experts.<sup>59</sup>

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<sup>57</sup>Chukwuma N., “Corruption and Institutional Weaknesses in Nigerian Privatization,” in *Corruption and Governance Reform in Africa* (2017) p. 88.

<sup>58</sup>Igbinedion S., “Public Enterprises Reform in Nigeria: Legal and Policy Issues,” *African Journal of Legal Studies* Vol. 11 (2018) p. 115.

<sup>59</sup>Omotola J.A., *Ibid.*, p. 269.

## CHAPTER FOUR

### PRIVATIZATION AND QUALITY OF LIFE

#### 4.1 Introduction

Privatization has been globally deployed as a mechanism for reforming public enterprises, enhancing economic efficiency, and stimulating development. For countries like Nigeria, where state ownership of enterprises has long been associated with corruption, inefficiency and poor service delivery, privatization promised a pathway to improved productivity, innovation and socio-economic growth. However, the extent to which these promises have translated into concrete improvements in job creation and the quality of life remains a contested subject both in policy and in the academia.

This chapter undertakes a comparative analysis of Nigeria and four other countries – United Kingdom, India, Brazil and South Africa; focusing on how privatization has influenced employment patterns and citizen welfare. It adopts a sectoral lens, examining key industries such as power, telecommunications, transport, housing and banking, which are traditionally sensitive to both public sector inefficiencies and private sector reforms.

The core objective is to draw empirical, theoretical and policy-relevant insights from these jurisdictions, providing a robust foundation for evaluating Nigeria's trajectory in relation to global practices. It adopts a multi-dimensional evaluation framework, assessing outcomes in terms of job creation (both in numbers and quality), access to services, poverty alleviation, cost of living and human development indices.

## 4.2 Methodology and Theoretical Anchoring

This study adopts a comparative approach, integrating descriptive statistics, content analysis and empirical data from published research, government reports, international development institutions and academic texts. The rationale is to permit nuanced country-specific insights while remaining within a coherent analytical framework. The theoretical foundation aligns with the efficiency theory and public choice theory, both of which have been elaborated in Chapter Two.

The criteria for comparison include:

- a. The legal and institutional framework of privatization;
- b. The dominant model of privatization (e.g. full divestiture, partial sale, public-private partnerships);
- c. Employment impact: job losses, job creation, labour casualization, wage trends;
- d. Impact on access, affordability and quality of services;
- e. General impact on quality of life and national development indicators.

### **Rationale for Country Selection**

In comparing Nigeria's privatization experience with those of the United Kingdom, India, Brazil and South Africa, certain shared characteristics and divergent realities make these countries appropriate benchmarks. The choice of these countries is deliberate as it is premised on five principal criteria: post-colonial economic transitions, engagement with large-scale privatization, federal or quasi-federal structures, similarities in population size or resource base and differing regulatory enforcement mechanisms.

- i. **The United Kingdom (UK)** serves as a classic model of neoliberal privatization, having pioneered sweeping privatization reforms under Margaret Thatcher in the

1980s. The UK's experience remains a foundational reference point for evaluating efficiency-driven privatization, especially in utilities, transport and housing sectors.<sup>1</sup>

- ii. **India** was chosen due to its mixed economy model, large population and a phased privatization approach within a democratic federal setup. India balances public interest with private efficiency, with substantial policy reform following the 1991 liberalization wave.<sup>2</sup>
- iii. **Brazil**, as a resource-rich and populous federal republic, mirrors Nigeria's struggles with inequality, bureaucracy and rent-seeking. It has undertaken bold privatization programmes, especially in infrastructure and utilities, often under IMF-backed reforms.<sup>3</sup>
- iv. **South Africa**, with its African post-apartheid socio-political context, offers a culturally and geographically relevant comparator. Its attempts to combine privatization with social transformation and the challenge of balancing equity with efficiency are instructive for Nigeria.<sup>4</sup>

These four countries present diverse models across the neoliberal-statist spectrum thus enabling a multi-dimensional comparative analysis of how privatization affects employment and quality of life.

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<sup>1</sup> Vickers, J. and Yarrow, G., *Privatization: An Economic Analysis*, MIT Press, 1991.

<sup>2</sup> Ramaswamy, R. and Sengupta, A., "India's Disinvestment Programme: An Overview," *Economic and Political Weekly*, Vol. 36, No. 18 (2001), pp. 1469–1477.

<sup>3</sup> Pinheiro, A.C., "Brazil's Privatization Program," *Revista do Serviço Público*, Vol. 48, No. 1 (1997), pp. 5–26.

<sup>4</sup> Fine, B. and Rustonjee, Z., *The Political Economy of South Africa: From Minerals-Energy Complex to Industrialisation*, Westview Press, 1996.

### 4.3 Nigeria's Experience: Promises and Paradoxes

Nigeria's privatization wave, particularly under the Bureau of Public Enterprises (BPE), began in earnest during the late 1990s under the guidance of the National Council on Privatization. While the country recorded over 140 privatization transactions between 1999 and 2011 alone, the programme has been subject to criticism for concentrating wealth, entrenching monopolies and failing to deliver commensurate public value.<sup>5</sup>

*Power Sector:* Nigeria's power sector reform culminated in the unbundling of the Power Holding Company of Nigeria (PHCN) into 11 distribution companies (DISCOs), 6 generation companies (GENCOs) and a single transmission company. The 2013 privatization was intended to spur investment and improve supply reliability. However, the post-privatization era has been marked by tariff hikes, widespread blackouts and low investor confidence.<sup>6</sup> While some job creation occurred during the transitional phase, many workers were laid off or casualized.<sup>7</sup>

*Telecommunications:* The sale of NITEL and the liberalization of telecoms remains one of Nigeria's success stories. From less than 500,000 phone lines in 1999, the industry now supports over 200 million active lines, thousands of SMEs and millions of jobs directly and indirectly.<sup>8</sup> However, the employment generated is often precarious and poorly regulated.

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<sup>5</sup>Jerome, A. (2008). Privatization and Enterprise Performance in Nigeria: Case Study of Some Privatized Enterprises. AERC Research Paper 175.

<sup>6</sup>Eberhard, A., et al. (2016). Independent Power Projects in Sub-Saharan Africa. World Bank, p. 119.

<sup>7</sup>Adewuyi, A. O. (2012). "Privatization in Nigeria: A Critical Assessment of Its Impact on the Power Sector." Journal of Business and Organizational Development, Vol. 4(1), pp. 12–22.

<sup>8</sup>Ndukwe, E. (2008). "Telecommunications in Nigeria: The Journey So Far." Nigerian Communications Commission Annual Report, p. 9.

*Transport:* Reforms in railways, aviation, and ports have produced mixed results. The concessioning of ports has improved efficiency but increased costs for end users.<sup>9</sup> Nigerian Railway Corporation's concessioning remains fraught with financial opacity and contractual disputes, limiting job creation potential.

*Banking:* Banking consolidation and privatization under the CBN reforms improved financial health but resulted in massive layoffs - over 5,000 workers lost jobs in 2005 alone.<sup>10</sup>

*Housing:* Attempts at privatizing federal housing schemes including through public-private partnerships, have largely failed due to weak policy coordination and poor regulatory oversight.<sup>11</sup> Housing affordability and availability remain critical challenges, particularly for low-income groups.

#### **4.4 United Kingdom: The Thatcher Model and its Aftermath**

The UK stands as the archetype of neoliberal privatization, particularly under Prime Minister Margaret Thatcher in the 1980s and early 1990s. Entire industries including British Airways, British Gas, British Rail and British Telecom were sold off. The guiding ideology was market efficiency and reduced government footprint.<sup>12</sup>

*Job Creation:* The early period witnessed substantial job losses due to the shedding of redundant labour in newly privatized firms. British Steel alone cut more than 100,000 jobs between 1979 and 1987.<sup>13</sup> However, the private sector gradually absorbed many

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<sup>9</sup>BPE (2010). Ports Concession Evaluation Report, Bureau of Public Enterprises, Abuja, p. 33.

<sup>10</sup>CBN (2006). Banking Sector Consolidation in Nigeria, Central Bank of Nigeria Occasional Paper No. 31, p. 27.

<sup>11</sup>Mabogunje, A. L. (2003). "The New Nigerian Housing Policy." *Housing Today*, Vol. 1(5), pp. 7–15.

<sup>12</sup>Vickers, J., & Yarrow, G. (1988). *Privatization: An Economic Analysis*. Cambridge, MA: MIT Press, pp. 105–140.

<sup>13</sup>Vickers, J. and Yarrow, G. (1991). "Economic Perspectives on Privatization." *Journal of Economic Perspectives*, Vol. 5(2), pp. 111–132.

workers, often in more competitive, service-based roles. Critics argue that job quality declined and that wage inequality rose in the aftermath.<sup>14</sup>

*Quality of Life:* Privatization improved consumer choice and service delivery, especially in telecoms and transport. Yet, concerns persist about affordability and equity. For instance, the privatized water sector saw a 40% rise in prices within the first decade.<sup>15</sup>

#### **4.5 India: Gradualism in a Federal System**

India's privatization programme took a more cautious and incremental route, especially in the wake of the 1991 liberalization reforms. The approach was shaped by political contestation, a large public sector workforce and the imperative to balance economic reforms with social equity.

*Power Sector:* Electricity reforms were state-led but federally incentivized. The Electricity Act of 2003 enabled open access and private participation in generation and distribution. States like Gujarat and Maharashtra achieved notable success with improved supply and reliability.<sup>16</sup> However, job creation was limited due to continued state control in many regions and slow roll-out of competitive practices.<sup>17</sup>

*Telecommunications:* The National Telecom Policy of 1994 marked a major shift toward privatization and liberalization. Telecom penetration surged from 0.8 lines per 100 people in 1994 to over 90 lines per 100 by 2020.<sup>18</sup> This expansion supported a substantial

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<sup>14</sup>Parker, D. (2003). *The UK's Privatization Experiment*. Routledge, pp. 56–59.

<sup>15</sup>Hall, D. (2005). "The UK Water Industry: Ownership, Performance and Public Expectations." Public Services International Research Unit, p. 18.

<sup>16</sup>Dubash, N. (2005). *Power Politics: Equity and Environment in Electricity Reform*. World Resources Institute, pp. 37–39.

<sup>17</sup>Singh, N. and Thomas, E. (2015). "Privatization in India: An Evaluation." *Indian Journal of Economics*, Vol. 92(3), pp. 104–118.

<sup>18</sup>Telecom Regulatory Authority of India (TRAI) (2020). *Annual Performance Report*, p. 45.

increase in employment, especially in customer support, retail distribution and maintenance services, though often outside formal job protections.

*Transport:* Public-Private Partnerships (PPPs) were the backbone of India's highway expansion under the National Highways Development Programme (NHDP). Projects like the Golden Quadrilateral created direct construction jobs and facilitated mobility-driven employment.<sup>19</sup> Railways, however, remain largely state-run with partial privatization attempted through station modernization and private freight initiatives.

*Banking:* India resisted full privatization of public sector banks (PSBs), preferring recapitalization and governance reforms. Although the share of private banks in total assets grew, major state-owned banks continue to dominate. Job security has been maintained in PSBs, but their efficiency lags behind private competitors.<sup>20</sup>

*Housing:* Affordable housing was tackled via PPPs and incentive schemes such as the Pradhan Mantri Awas Yojana (PMAY). These efforts yielded employment in construction and urban planning but had mixed outcomes in delivering sustainable housing for the urban poor.<sup>21</sup>

India's cautious model preserved jobs in many sectors while promoting gradual service expansion. However, it struggled to generate high-quality jobs at scale or radically improve living conditions for its vast lower-income populations.

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<sup>19</sup>Ministry of Road Transport and Highways, India (2018). NHDP Progress Report, p. 22.

<sup>20</sup>Reserve Bank of India (2021). Report on Trend and Progress of Banking in India, pp. 78–80.

<sup>21</sup>Jha, R. (2017). "Affordable Housing in India: Challenges and Way Forward." *Economic and Political Weekly*, Vol. 52(20), pp. 39–46.

#### 4.6 Brazil: Privatization Amid Democratic Consolidation

Brazil's privatization efforts intensified under President Fernando Henrique Cardoso (1995–2002), driven by the need to address macroeconomic instability and inefficiencies in state-owned enterprises (SOEs). The Brazilian Development Bank (BNDES) played a critical role in financing and structuring deals.

*Power Sector:* The sector was unbundled with regulatory reforms implemented via ANEEL (National Electric Energy Agency). By 2003, over 75% of electricity generation was in private hands.<sup>22</sup> This led to moderate improvements in service delivery and attracted foreign investment. However, high tariffs and regulatory complexity affected affordability and undermined public trust.<sup>23</sup>

*Telecommunications:* The privatization of Telebrás in 1998 marked a watershed moment. Mobile and internet access expanded dramatically and the telecoms sector became one of Brazil's largest employers.<sup>24</sup> Yet, rural areas continued to experience service gaps and many jobs created were low-paid and temporary.

*Transport:* Airport and port concessions have shown mixed results. While São Paulo's Guarulhos airport improved significantly under private operators, inefficiencies remain in road logistics. Employment generation in logistics and air travel was positive but not transformative.<sup>25</sup>

*Banking:* Brazil privatized several state-owned banks but retained control of major development and retail banks like Banco do Brasil and Caixa Econômica Federal. These

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<sup>22</sup>BNDES (2002). Privatization in Brazil: Summary Report, p. 31.

<sup>23</sup>Melo, M. A. (2001). "Retrenchment, Recalibration and the Politics of Infrastructure Reform in Brazil." *Journal of Latin American Studies*, Vol. 33(3), pp. 611–638.

<sup>24</sup>ITU (2005). Case Study: Brazil Telecom Sector Reform, p. 14.

<sup>25</sup>World Bank (2021). Transport Sector in Brazil: Reform and Results, p. 42.

banks continued to support inclusive policies while private banks thrived in urban areas. The sector witnessed job cuts during restructuring but later recovered through digital transformation.<sup>26</sup>

*Housing:* Brazil launched ambitious housing schemes like “*Minha Casa, Minha Vida*” (My House, My Life), blending public financing with private construction. While this supported millions of jobs and expanded access, quality concerns and poor urban integration limited long-term welfare gains.<sup>27</sup>

#### **4.7 South Africa: Market Reforms in a Transitional Society**

South Africa's privatization agenda has evolved in the context of post-apartheid restructuring. The African National Congress (ANC) has often been ideologically ambivalent about privatization, balancing economic liberalization with redistributive imperatives.

*Power Sector:* Eskom, the state utility, remains largely public. Attempts at unbundling and Independent Power Producer (IPP) programmes have been slow. Chronic load-shedding and governance failures have eroded service delivery and stifled industrial productivity.<sup>28</sup> Job creation in renewable energy has been positive but remains localized and unscalable.

*Telecommunications:* The partial privatization of Telkom in the late 1990s facilitated service expansion but introduced affordability issues. MTN and Vodacom, private

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<sup>26</sup>IMF (2005). Brazil: Financial Sector Assessment Program, p. 24.

<sup>27</sup>Rolnik, R. (2011). “Democracy on the Edge: Limits and Possibilities in the Implementation of an Urban Reform Agenda in Brazil.” *International Journal of Urban and Regional Research*, Vol. 35(2), pp. 239–255.

<sup>28</sup>Eskom (2020). Integrated Report, p. 17.

operators, now dominate, having contributed substantially to rural telephony and employment.<sup>29</sup>

*Transport:* Public-private partnerships have helped modernize urban transport (e.g., Gautrain), yet the national rail system remains underperforming. Road freight continues to dominate logistics, with employment characterized by informality and weak protections.<sup>30</sup>

*Banking:* South Africa's financial sector is primarily privately owned, and among the most sophisticated in Africa. However, access to credit for SMEs and low-income households remains limited. Banking jobs have become more specialized but fewer due to digitalization.<sup>31</sup>

*Housing:* The government has focused on state-led housing delivery through the Reconstruction and Development Programme (RDP). Despite building over 3 million homes since 1994, many suffer from structural deficiencies and poor location planning, thus limiting quality-of-life improvements.<sup>32</sup>

#### **4.8 Comparative Synthesis**

A cross-analysis of the five countries reveals distinct trajectories in how privatization has influenced job creation and quality of life. The following patterns emerge:

- *Job Creation:* The UK and Brazil witnessed initial job losses followed by sectorial absorption, while India and Nigeria experienced a shift from formal employment to

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<sup>29</sup>Gillwald, A. (2005). South Africa's Telecommunications Sector Performance Review, p. 21.

<sup>30</sup>Godana, T. and Heyns, G. (2018). "Public-Private Partnerships in South African Transport." *Journal of Transport and Supply Chain Management*, Vol. 12, pp. 1–9.

<sup>31</sup>SARB (2019). *Banking Sector Overview*, South African Reserve Bank, p. 13.

<sup>32</sup>Rust, K. (2006). "Analysis of South Africa's Housing Programme." *Housing Finance International*, Vol. 21(3), pp. 20–26.

informal or precarious jobs. South Africa, constrained by political caution, showed slower transitions and mixed labour market effects.

- *Service Access and Affordability*: While telecommunications consistently improved across all five countries, the power and housing sectors struggled to match private efficiency with affordability. In Nigeria and South Africa, energy reforms have underperformed; in India and Brazil, targeted subsidies cushioned price shocks.
- *Institutional Effectiveness*: Effective regulation and governance were central to success. The UK and India had relatively strong institutional frameworks; Nigeria and South Africa faced corruption, weak oversight and public distrust.
- *Sectoral Impact*: Telecoms, banking and transportation were more amenable to privatization and job growth. Housing and power often failed to balance market outcomes with social needs.

## 4.9 Comparative Analysis of Efficiency

### a) Similarities

All five countries (Nigeria included) experienced privatization as part of structural reforms to liberalize the economy, reduce public sector inefficiency and attract foreign investment. Each had sectors where state monopolies were dominant, particularly in power, telecoms and transportation. In all cases, privatization was framed as a strategy for reducing fiscal burden and boosting productivity.<sup>33</sup>

Another shared feature is the resistance from labour unions and civil society, rooted in fears of mass retrenchment and diminished access to essential services. Additionally, all

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<sup>33</sup>Shirley, M., *Thirsting for Efficiency: The Economics of Privatization in Africa*, World Bank, 2002.

countries experienced an initial spike in unemployment post-privatization, followed by uneven job recovery trajectories.<sup>34</sup>

*b) Differences*

**Policy Coherence and Sequencing:** The UK privatized with clear ideological commitment and a strong legal-regulatory framework. India's privatization was cautious and incremental, often involving strategic disinvestment rather than outright sale. Brazil implemented privatization under tight IMF conditionalities, often prioritizing fiscal goals over social impact. South Africa emphasized public-private partnerships and social equity.<sup>35</sup>

**Sectorial Focus:** The UK and India privatized telecommunications and banking early, with significant efficiency gains. Brazil focused heavily on transportation (e.g., ports and railways), while South Africa's flagship privatizations have centred on energy and water utilities. Nigeria, by contrast, has struggled with privatizing its power sector effectively and has seen mixed results in transport and housing.<sup>36</sup>

**Transparency and Corruption:** Nigeria's experience has been plagued by opaque transactions, nepotism and asset-stripping. Brazil also faced corruption scandals (e.g. Operation Car Wash) though with stronger legal reprisals. The UK and India demonstrated relatively higher procedural transparency, while South Africa faced challenges around equity ownership for black citizens.<sup>37</sup>

*c) What Works Better and Why*

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<sup>34</sup>Kikeri, S., Nellis, J. and Shirley, M., "Privatization: The Lessons of Experience," *World Bank Policy Research Working Paper*, 1992.

<sup>35</sup>Parker, D. and Kirkpatrick, C., "Privatization in Developing Countries: A Review of the Evidence and the Policy Lessons," *Journal of Development Studies*, Vol. 41, No. 4 (2005), pp. 513–541.

<sup>36</sup>Jerome, A., "Privatization and Enterprise Performance in Nigeria: Case Study of Some Privatized Enterprises," AERC Research Paper 175, 2008.

<sup>37</sup>Trebat, T.J., *Brazil's State-Owned Enterprises: A Case Study of the State as Entrepreneur*, Cambridge University Press, 1983.

The UK model stands out for its institutional preparation, sequencing and regulatory enforcement. Success was enabled by setting up independent regulatory commissions before divesting state assets. For example, OFGEM in the electricity sector and OFCOM in telecoms ensured continuity of service and consumer protection.<sup>38</sup>

India's model of strategic disinvestment, rather than wholesale privatization, helped mitigate political backlash and allowed the state to retain some control. Furthermore, India's use of professional asset valuation and phased bidding ensured value for money and reduced legal disputes.<sup>39</sup>

Brazil's emphasis on infrastructure concessions created incentives for private investment while maintaining public oversight. However, the weak judiciary initially hampered contract enforcement, an issue that improved over time.

South Africa's unique approach incorporated public-private partnerships and required private investors to comply with Black Economic Empowerment (BEE) policies. Though implementation has been uneven, it reflects a nuanced approach to equity and inclusion.<sup>40</sup>

*d) Lessons to be Learnt by Nigeria*

1. **Legal and Institutional Reforms Precede Privatization:** Nigeria must build strong regulatory institutions before divestiture. Without reliable contract enforcement, privatization can easily become asset looting.

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<sup>38</sup>Helm, D., *The Economic Borders of the State*, Oxford University Press, 2010.

<sup>39</sup>Bajpai, N. and Sachs, J., "Reforms in India's Government and Bureaucracy," Harvard University Center for International Development Working Paper, 2000.

<sup>40</sup>Tangri, R. and Southall, R., "The Politics of Black Economic Empowerment in South Africa," *Journal of Southern African Studies*, Vol. 34, No. 3 (2008), pp. 699–716.

2. **Transparency and Public Participation:** Public buy-in and procedural transparency as seen in India and the UK can reduce resistance and enhance legitimacy.
3. **Strategic Disinvestment:** Nigeria could emulate India's gradualist model in sensitive sectors like health, housing and education, avoiding abrupt exits that dislocate public welfare.
4. **Inclusive Policy Frameworks:** As in South Africa, privatization in Nigeria must address equity and inclusion. This is crucial in a multi-ethnic, economically unequal society.
5. **Contract Management and Post-Privatization Oversight:** Nigeria must institutionalize systems to monitor concessionaires and ensure service delivery benchmarks.

*e) The Role of Law, Culture, Enforcement and Policy*

**Legal Infrastructure:** The UK and India have mature legal systems with enforceable property rights and administrative review. Brazil's judiciary has evolved significantly, but political interference still looms. South Africa's progressive constitution ensures socio-economic rights, influencing privatization design. Nigeria's legal system remains underfunded and susceptible to executive interference.<sup>41</sup>

**Culture:** While UK citizens generally accept private provision of services, cultural expectations in Nigeria often equate public ownership with national pride and job security. This creates resistance to reform.

**Enforcement Capacity:** Regulatory agencies in the UK and India have considerable autonomy. In contrast, Nigeria's Bureau of Public Enterprises (BPE) and regulatory

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<sup>41</sup>**Okaisabor, J. O. (2024).** The quest of fiscal autonomy for judicial independence: the case of the Nigerian judiciary and its challenges. African Identities. [The quest of fiscal autonomy for judicial independence: the case of the Nigerian judiciary and its challenges: African Identities: Vol 0, No 0 - Get Access](#) accessed May 22 2025

commissions often lack teeth, autonomy or funding. This weakens enforcement and post-privatization monitoring.<sup>42</sup>

**Policy Consistency:** Frequent policy reversals and mixed messaging in Nigeria contrast with the strategic clarity in the UK and India. In Brazil and South Africa, macroeconomic constraints sometimes override long-term policy goals, but overall coherence is stronger than Nigeria's.

#### **4.10 Implications of the Comparative Analysis and Relevance to the Study**

The comparative analysis undertaken in this chapter between Nigeria and four other jurisdictions namely the United Kingdom, India, Brazil and South Africa, has illuminated key dynamics that inform the efficiency of privatization as a development policy. This final section explores the implications of those comparisons and articulates their relevance to the present dissertation.

##### *1. Illuminating Contextual Variations in Privatization Outcomes*

A central implication of this comparison is that privatization outcomes are fundamentally shaped by national context. The same privatization policy can yield widely divergent results depending on the legal regime, institutional strength, cultural values, level of economic development and enforcement capacity.

- The UK's model succeeded largely because it was anchored on a well-developed regulatory ecosystem, a credible judiciary and efficient corporate governance. The country's strong property rights regime, independent regulatory agencies and proactive antitrust laws enabled privatization to stimulate competition and improve service delivery.

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<sup>42</sup>Ariyo, A. and Jerome, A., "Privatization in Africa: An Appraisal," *World Development*, Vol. 27, No. 1 (1999), pp. 201–213.

- India's gradualist and politically negotiated approach prioritized employment preservation and strategic autonomy, reflecting cultural sensitivities to mass job losses and national control over critical sectors.
- Brazil combined state divestiture with social investments and regional equity strategies, ensuring that privatization revenues supported public services especially in poorer regions.
- South Africa integrated redistributive mechanisms, notably Black Economic Empowerment (BEE), to ensure that privatization did not exacerbate inequality in a post-apartheid context.

These contrasts help to show the lack of such tailored strategies in Nigeria, where privatization was largely treated as a fiscal necessity rather than a developmental strategy. By failing to adapt its process to national realities especially institutional weaknesses and socio-economic disparities, Nigeria struggled to realize the full developmental dividends of privatization.

## *2. Refining the Criteria for Measuring Privatization Efficiency*

The comparative study pushes this dissertation to adopt a more multidimensional and rigorous criterion for evaluating efficiency. Instead of relying narrowly on fiscal outcomes (e.g. revenue generated from asset sales or reduction in government expenditure), the experiences of the comparator countries show that:

- Employment sustainability, post-privatization labour absorption and conditions of service must be part of the efficiency metric.
- Service affordability and quality, especially in essential sectors like power, transport, housing and telecommunications are critical.

- Long-term impact on economic inclusion and citizen welfare is a more legitimate measure of privatization's success than short-term financial savings.

This reframing enables this dissertation to challenge the dominant narrative in Nigerian policy discourse, which often equates efficiency with quick divestment and cost-cutting - without interrogating whether such measures translate into improved citizen outcomes.

### *3. Benchmarking Reform Strategies: What Works Better and Why*

The comparison makes clear that successful privatization is neither ideologically automatic nor economically universal. It is instead the product of deliberate sequencing, legal safeguards and political accountability. Countries that succeeded in enhancing job creation and quality of life post-privatization had the following in common:

- Clear legislative mandates and independent regulatory agencies to monitor and enforce post-sale obligations (as seen in the UK and India).
- Transparent and competitive bidding processes that deterred crony capitalism and asset stripping (notably in Brazil and India).
- Public communication strategies and stakeholder engagement mechanisms to manage resistance, build consensus and reduce social dislocation (as seen in South Africa and Brazil).
- Mechanisms for revenue reinvestment into the social sectors and marginalized communities (e.g. Brazil's Social Fund model and South Africa's BEE requirements).

By contrast, Nigeria's privatization programme has often been marred by opacity, elite capture and weak post-sale regulation, which explains why the benefits have not sufficiently translated into improved job creation or better public services. The comparative findings offer actionable templates for reform: particularly in establishing

credible regulatory institutions, enforcing service-level agreements and ensuring inclusive benefit-sharing mechanisms.

#### 4. *Lessons Learned: Legal, Cultural and Political Drivers of Success*

A key value of this comparative exercise is that it highlights not only what works, but why it works and in what legal, cultural and policy setting. The following lessons are particularly salient for Nigerian reform:

- *Law*: Legal reforms must precede and underpin privatization. In the UK and India, enabling laws clearly defined the process, rights, liabilities and dispute resolution mechanisms. Nigeria must revise the legal framework for privatization, including stronger provisions for enforcement, accountability and post-sale monitoring.
- *Culture*: Privatization policies must reflect societal values. In India, job security is deeply embedded in national identity and the disinvestment programme was adjusted accordingly. South Africa's racialized history necessitated an affirmative action dimension to privatization. Nigeria must similarly recognize its multi-ethnic and inequality-sensitive context in designing fairer and more inclusive policies.
- *Enforcement*: Regulatory and enforcement institutions are the backbone of functional privatization. Where regulators are captured, underfunded or lack technical expertise, privatization becomes a façade for rent-seeking. Nigeria must empower and insulate regulatory agencies such as BPE, NERC and NCC from political interference.
- *Policy Coherence*: Privatization should be embedded within a broader development strategy, including job creation, industrialization and poverty reduction. Piecemeal or reactive privatization, as seen in Nigeria, often exacerbates structural weaknesses rather than resolving them.

### *5. Relevance to the Broader Dissertation*

This comparative chapter serves several core purposes within this dissertation. It:

- Strengthens the theoretical argument that privatization should be judged by its developmental efficacy, not merely fiscal results.
- Deepens the empirical base for understanding Nigeria's failures and partial successes in different sectors.
- Offers grounded, context-specific recommendations drawn from practical, real-world experiences of countries with similar (South Africa, India) and different (UK, Brazil) development trajectories.
- Reorients the policy debate from narrow neoliberal metrics to broader human development indicators, including job creation, public sector productivity and service delivery.

Above all, it affirms the central thesis of this dissertation - that privatization in Nigeria can only be efficient if it is legally sound, socially responsive, economically inclusive and institutionally enforceable. Without these conditions, privatization risks becoming a form of elite asset transfer that worsens unemployment, deepens inequality and erodes public trust in governance.

#### **4.11 Conclusion**

A comparative review of the privatization models in the UK, India, Brazil and South Africa reveals a range of approaches shaped by context, ideology and institutional maturity. Nigeria's path has been marred by inconsistency, opacity and weak enforcement, undermining the intended benefits of privatization.

Drawing lessons from these jurisdictions, Nigeria must prioritize regulatory strengthening, transparency, strategic sector selection and inclusive design. Law, culture, and institutional enforcement significantly shape the success or failure of privatization efforts. These are factors that must be at the heart of reform strategy.

Privatization is not a monolithic solution, it is mediated by governance capacity, institutional quality and socio-political context. While it has enhanced service delivery and catalysed investment in several sectors, it has also exacerbated inequalities, reduced formal employment, and failed to guarantee sustained welfare improvements, especially in weak regulatory environments like Nigeria.

For Nigeria, the key policy takeaways are:

- Strengthen institutions before privatization to ensure transparency, contract enforcement and effective regulation.
- Implement safety nets to protect displaced workers and vulnerable groups.
- Embrace sector-specific models rather than a one-size-fits-all approach.
- Reinforce local content, employment standards and corporate accountability in privatization contracts.

## CHAPTER FIVE

### PRIVATIZATION OR PUBLIC SECTOR

#### 5.1 Introduction

The debate between privatization and maintaining a strong public sector is a deeply contested issue, particularly in developing countries like Nigeria. The public sector has historically been seen as the cornerstone for socio-economic development while privatization has been promoted as a way to increase efficiency and reduce the financial burden on the government. However, the experience of privatization in Nigeria, especially in sectors like telecommunications, banking and utilities, has shown mixed results. While there have been notable successes, there have also been numerous failures, often related to corruption, lack of regulation and the consolidation of monopolies. This chapter examines the challenges and gains of both the public sector and privatization in Nigeria and proposes Public-Private Partnerships (PPPs) as a middle ground to ensure effective public service delivery using Ibom Air as a case study.

#### 5.2 The Public Sector in Nigeria: Challenges and Prospects

The public sector in Nigeria has long been the primary vehicle for the provision of social services including health, education, transportation and infrastructure. However, it has faced numerous challenges, undermining its effectiveness and contribution to national development.

- i. *Bureaucratic Inefficiency*: The Nigerian public sector is notorious for its bureaucratic inefficiencies which include excessive red tape, sluggish decision-making processes and a lack of responsiveness to changing market conditions. Government institutions are often slow to adapt to the needs of citizens and

procedures within ministries and departments can be frustratingly complex, delaying service delivery.<sup>1</sup>

- ii. *Corruption and Mismanagement:* Corruption has been a major issue within the Nigerian public sector with the misallocation of public resources, embezzlement and bribery commonplace. State-owned enterprises (SOEs) have frequently been used for political patronage rather than for providing essential services. This phenomenon is evident in entities like the Nigerian National Petroleum Corporation (NNPC) and NITEL, both of which have faced large-scale mismanagement and failure.<sup>2</sup>
- iii. *Poor Accountability:* Accountability in the public sector is another persistent challenge. There is often a lack of transparency, and when public officials are held accountable, it is often symbolic or superficial. Poor governance mechanisms in SOEs such as lack of performance audits and weak regulatory frameworks, have contributed to the inefficiency of these enterprises.<sup>3</sup>
- iv. *Funding Constraints:* The Nigerian government spends a large proportion of its annual budget on recurrent expenditure such as wages and subsidies, leaving limited funds for critical infrastructural development or sectorial reform. Inadequate funding has stifled the growth potential of the public sector and contributed to its inefficiency.<sup>4</sup>

Despite these challenges, the public sector in Nigeria has achieved significant progress in certain areas, including providing infrastructure in remote areas and serving as a

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<sup>1</sup>Olagunju SO, *Nigeria's Public Sector Reform: Prospects and Challenges* (Lagos: Longman, 2021), 43.

<sup>2</sup>Akindele AO., *Corruption and Governance in Nigeria's Public Sector* (Ibadan: University Press, 2020), 88.

<sup>3</sup>Adeniran RA., *The Need for Accountability in Public Sector Enterprises* (Abuja: Nigerian National Press, 2019), 132.

<sup>4</sup>Nwankwo NE, *Public Sector Funding and Economic Development in Nigeria* (Enugu: Fourth Estate, 2020), 57.

stabilizing force in times of economic hardship. The National Health Insurance Scheme (NHIS), for instance, has been a key driver of health sector access for low-income Nigerians.

### 5.3 Gains and Failures of Privatization

Privatization has been a core element of Nigeria's economic reform agenda since the 1980s, aimed at improving efficiency in SOEs and generating revenue for the government. However, privatization efforts have had mixed outcomes.

#### i. *Gains:*

- a. *Increased Efficiency:* Privatization has led to significant improvements in efficiency in sectors such as telecommunication where companies like MTN and Glo have introduced better service and competitive pricing, driving both market growth and technological advancement.<sup>5</sup> The liberalization of the telecommunications industry has enabled private firms to rapidly expand network coverage and improve service delivery across Nigeria.<sup>6</sup>
- b. *Revenue Generation:* The privatization of state-owned enterprises like NITEL and the Power Holding Company of Nigeria (PHCN) has brought in billions of naira in proceeds, which the government has used to fund other essential sectors.<sup>7</sup> Furthermore, privatization has encouraged foreign direct investment (FDI) bringing in much-needed capital for development.<sup>8</sup>

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<sup>5</sup>M. J. Oke, *Privatization and Economic Reform in Nigeria: A Case Study of the Telecommunications Sector* (Lagos: Oxford University Press, 2021), 72.

<sup>6</sup>*Ibid.*, 75.

<sup>7</sup>*Ibid.*, 89.

<sup>8</sup>F. A. Olorunfemi, *The Impact of Privatization on Nigeria's Economy* (Abuja: Nigerian Institute of Economic Research, 2022), 107.

c. *Job Creation*: While privatization has often been accompanied by job losses, particularly in SOEs with bloated payrolls, it has also contributed to new job opportunities in privatized sectors. The telecommunications sector, for example, has seen significant job creation, both directly and indirectly, as a result of increased private investment and the development of new markets.<sup>9</sup>

**ii. Failures:**

a. *Asset Stripping and Crony Capitalism*: One of the main criticisms of privatization in Nigeria is the widespread allegation of asset stripping and crony capitalism. In some cases, privatized assets were sold at below-market prices, often to politically connected individuals. This led to the creation of private monopolies in key sectors, such as electricity, and undermined the competitive nature that privatization was meant to achieve.<sup>10</sup>

b. *Job Losses*: While privatization has created jobs in some sectors, it has led to significant retrenchments in others, especially in heavily state-controlled sectors like banking and aviation. This has raised concerns about the social impact of privatization, particularly in terms of the large numbers of people left unemployed by privatization.<sup>11</sup>

c. *Poor Regulation*: Another failure has been the insufficient regulation of privatized firms. The power sector, for example, has been characterized by high tariffs, poor service delivery and a lack of competition among privatized electricity companies

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<sup>9</sup>Ibid., 111.

<sup>10</sup>O. T. Akinyele, *Privatization and the Future of Nigerian State-Owned Enterprises* (Ibadan: University Press, 2020), 92.

<sup>11</sup>Ibid., 104.

(DisCos and GenCos). The government has struggled to enforce regulatory standards and ensure that privatized firms meet the public's needs.<sup>12</sup>

#### **5.4 Public-Private Partnerships: A Middle Ground**

Given the mixed outcomes of privatization and the continuing challenges faced by the public sector, Public-Private Partnerships (PPPs) have emerged as a promising model for development. PPPs involve collaborative efforts between the government and the private sector to provide public services or infrastructure, combining the strengths of both sectors.

PPPs allow for the public sector's role in ensuring equity and social justice while private sector efficiency drives innovation, resource mobilization and improved service delivery.

This hybrid model can address the limitations of both privatization and full public sector ownership, offering a sustainable path forward for service delivery and infrastructure development.

#### **5.5 Ibom Air: A Case Study of Pragmatic Partnership**

The success of Ibom Air, launched in 2019 by the AkwaIbom State Government, provides an exemplary model of how a well-executed public-private partnership can enhance service delivery while leveraging public sector legitimacy.

- i. *Business Model and Operational Efficiency:* Ibom Air is a limited liability company wholly owned by the Akwa Ibom State Government. The airline's business model combines public ownership with private sector management expertise, which allows the government to retain control while benefiting from private sector innovation. The airline

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<sup>12</sup> Olorunfemi FA. The Impact of Privatization on Nigeria's Economy, 113.

operates a fleet of modern Airbus A220 aircraft, which were carefully chosen for efficiency, safety and reduced operational costs.<sup>13</sup>

This model departs from the typical state-owned airline model, which is often plagued by inefficiency and financial mismanagement. The operational autonomy granted to Ibom Air has allowed it to make strategic decisions independently of bureaucratic bottlenecks typically found in fully public institutions.<sup>14</sup>

- ii. *Competitive Pricing and Service Delivery:* Ibom Air has garnered praise for its competitive pricing, punctuality and safety standards. The airline's commitment to customer satisfaction is reflected in its high customer approval ratings, setting a benchmark for other domestic carriers. It offers lower fares and more flexible schedules compared to other airlines in the region, which has increased its market share and attracted a broad customer base.<sup>15</sup>
- iii. *Economic Impact and Job Creation:* Ibom Air has not only contributed to the local economy by providing affordable air travel but has also created jobs, both directly and indirectly. The airline has employed over 500 people, including pilots, cabin crew, ground staff and administrative personnel, creating vital employment in Akwa Ibom. Furthermore, the airline has boosted the tourism sector in the region by providing easier access to the state, encouraging both domestic and international visitors.<sup>16</sup>
- iv. *Social Impact:* Ibom Air's operation has had a transformative social impact, increasing connectivity to remote regions and promoting regional integration. The airline has

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<sup>13</sup>Ibid., 118.

<sup>14</sup>Oyebode ED, 'Ibom Air and the Role of Public-Private Partnerships in Nigeria's Aviation Industry (Lagos: NAIJA Tech Press, 2022), 51.

<sup>15</sup>Ibid., 55.

<sup>16</sup> Anwan AO, 'Economic Impact of Ibom Air on AkwaIbom State' (Uyo: Akwalbom State Government, 2022), 63.

helped to bridge gaps between Akwa Ibom and other states, fostering trade, cultural exchange and cooperation. This has been particularly important in a country like Nigeria, where infrastructural development can be uneven and fragmented.<sup>17</sup>

- v. *Lessons for Other States:* The success of Ibom Air provides valuable lessons for other Nigerian states considering public-private partnerships. One key lesson is that strategic autonomy, coupled with strong public sector ownership, can produce high-performance results in sectors that traditionally fall under government control. Another lesson is that clear regulatory frameworks and oversight mechanisms are crucial to ensuring accountability, preventing corruption and fostering long-term success in PPP models.

## 5.6 Theoretical Justification

Public-Private Partnerships (PPPs) have emerged as a crucial mechanism for improving the delivery of public services and infrastructure, especially in developing economies like Nigeria. The theoretical underpinnings of PPPs can be drawn from several key concepts in public administration, economics and political science. These theories provide a framework to understand why PPPs can be an effective means to combine the strengths of both the public and private sectors, ensuring the efficient provision of public goods while promoting sustainable development. Briefly, they are:

1. **Principal-Agent Theory:** Principal-Agent Theory is one of the most prominent frameworks used to justify the use of PPPs. In the context of PPPs, the government is the principal, and the private sector entity is the agent. The principal-agent relationship arises because the government seeks to outsource specific functions to private firms to enhance efficiency and effectiveness.

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<sup>17</sup>E. D. Oyeboode, *Ibom Air and the Role of Public-Private Partnerships in Nigeria's Aviation Industry*, 60.

In theory, the government (principal) enters into a contract with a private entity (agent) to deliver a public service or infrastructure project. This partnership is designed to align the agent's incentives with the principal's goals. By doing so, the government seeks to overcome its own administrative inefficiencies. However, for this arrangement to work effectively, the contract must clearly define the performance expectations, risk-sharing mechanisms and monitoring systems. This helps to mitigate the problem of "*moral hazard*" where the private agent may have incentives to act in ways that do not align with the governments or the public's best interests. In this way, PPPs aim to create a contractual environment that ensures public accountability while allowing for private-sector innovation and efficiency.<sup>18</sup>

- 2. Transaction Cost Economics:** Developed by Oliver Williamson, this theory provides another key justification for the use of PPPs. According to TCE, economic transactions, particularly those involving large infrastructure projects, are subject to various costs such as negotiation, enforcement and monitoring. Governments, especially in developing countries, often face high transaction costs when they attempt to manage complex infrastructure projects on their own. These costs can arise due to inefficiencies in government bureaucracy, corruption and a lack of specialized expertise. Governments opt for PPPs when **the cost of delivering a service or infrastructure through public agencies exceeds the cost of contracting it out**, even after factoring in the costs of writing and enforcing complex contracts.<sup>19</sup>

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<sup>18</sup>Grimsey, D., & Lewis, M. K. (2004). *Public Private Partnerships: The Worldwide Revolution in Infrastructure Provision and Project Finance*. Edward Elgar Publishing. See especially Chapter 2, pp. 20–35

<sup>19</sup>Williamson, O. E. (1985). *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*. Free Press, pp. 18–45.

By engaging in PPPs, the government can leverage the private sector's capacity to manage such projects efficiently, thus reducing transaction costs. Private firms often have the expertise, financial resources and incentive structures to execute large-scale projects more effectively. TCE argues that PPPs help to manage these situations more efficiently by designing long-term contracts that protect both parties from opportunism—especially when investments cannot be redeployed elsewhere.<sup>20</sup> Additionally, PPPs introduce competitive pressures that further reduce the costs associated with public sector project management. TCE suggests that when transaction costs are high, outsourcing to the private sector through PPPs can lead to more efficient outcomes compared to direct public provision.

- 3. Public Choice Theory:** Public Choice Theory offers another perspective on why PPPs can be an effective tool for public service delivery. This theory assumes that political actors, such as politicians and government officials, are driven by self-interest, which can result in inefficiencies in public administration. Politicians may favour short-term goals, such as securing votes or personal gains, over long-term economic efficiency. This can lead to the misallocation of resources, poor project execution and corruption in public sector programmes. This insight helps explain why some governments pursue PPPs – not necessarily to deliver better services, but to shift liabilities off-budget, reward cronies, or gain political mileage before elections.<sup>21</sup>

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<sup>20</sup> Hart, O. (2003). "Incomplete Contracts and Public Ownership: Remarks, and an Application to Public-Private Partnerships." *The Economic Journal*, 113(486), C69–C76. <https://doi.org/10.1111/1468-0297.00119>

<sup>21</sup> Buchanan, J. M., & Tullock, G. (1962). *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. University of Michigan Press, pp. 39–62.

PPPs, according to Public Choice Theory, offer a way to mitigate these inefficiencies. By involving the private sector in the delivery of public goods, PPPs reduce the potential for political interference and provide an opportunity for more rational, business-driven decision-making. The private sector is typically driven by market incentives, including profit maximization, which can promote more efficient and effective service delivery. Furthermore, since private entities have profit motives, they are often more committed to delivering quality services within budget and on time, thus benefiting the public by reducing waste and inefficiency. Public Choice Theory supports structural mechanisms – such as open procurement, citizen participation, legislative oversight, and independent auditing as ways to discipline public and private actors, making PPPs more accountable to the public interest.<sup>22</sup>

- 4. Neoliberalism and Market-Oriented Reform:** The theoretical justification for PPPs is also deeply rooted in neoliberal economic theory, which advocates for market-driven reforms and the reduction of state involvement in the economy. Neoliberalism, as an ideological framework, supports the privatization of public services and infrastructure, believing that the private sector is more efficient in resource allocation than the public sector. This belief is grounded in the idea that the competitive forces of the market foster efficiency, innovation and responsiveness to consumer needs.<sup>23</sup>

PPPs, as a hybrid form of privatization, reflect the principles of neoliberalism by leveraging the market's efficiency in providing public goods and services. Neoliberal

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<sup>22</sup>Boettke, P. J., & Leeson, P. T. (2004). "Liberalism, Socialism, and Robust Political Economy." *Journal of Markets & Morality*, 7(1), 99–111.

<sup>23</sup>Hodge, G., & Greve, C. (2007). "Public–Private Partnerships: An International Performance Review." *Public Administration Review*, 67(3), 545–558.

theorists argue that through PPPs, governments can enhance service delivery and infrastructure development without relinquishing control over critical sectors. The private sector's involvement is seen as a means to introduce discipline, innovation and accountability into sectors traditionally dominated by public sector inefficiencies. PPPs, therefore, represent a synthesis of the state's regulatory role with the efficiency of the private sector, which is central to neoliberal economic policy.

- 5. Development State Theory:** Development State Theory offers a critical perspective on the role of the state in guiding economic development. While neoliberalism advocates for reduced state intervention, Development State Theory emphasizes the importance of an active state role in fostering industrialization and economic growth. In this theory, the state is seen as a central player in directing economic activity, facilitating investment and ensuring that public infrastructure meets national development goals.

PPPs, in the context of Development State Theory, serve as a mechanism for the state to fulfil its developmental goals while capitalizing on the strengths of the private sector. The theory justifies the use of PPPs as a way for governments in developing countries to harness private investment and expertise for large-scale infrastructure projects while still maintaining strategic control over national development. By combining public oversight with private sector investment, PPPs enable states to pursue economic goals without relying solely on public resources. This approach helps to ensure that infrastructure development aligns with long-term developmental objectives, such as job creation, poverty reduction and sustainable growth. East Asian

examples such as South Korea, Singapore, and Taiwan illustrate this model. In these countries, the state entered into collaborative but controlling relationships with the private sector to build infrastructure, develop technology, and boost exports—all while maintaining state oversight and public accountability.<sup>24</sup>

- 6. Public Sector Modernization Theory:** This emphasizes the need for governments to adopt new management practices and organizational structures to improve the efficiency and effectiveness of public service delivery. As part of this modernization, governments are encouraged to embrace innovations such as PPPs, which allow for the incorporation of private sector practices into the public service. Public sector modernization recognizes that the traditional bureaucratic approach to public administration can often be slow, inefficient and unresponsive to citizens' needs.

PPPs, as a form of public sector modernization, help to break down outdated bureaucratic structures by introducing private sector methods of governance, such as performance-based contracting, competition and accountability. This approach fosters a more dynamic and responsive public sector, which can better meet the demands of citizens and contribute to improved quality of life. By adopting PPPs, governments can modernize their operations while maintaining a focus on public welfare and long-term development.<sup>25</sup>

The theoretical foundations of PPPs present a compelling case for their adoption as a key strategy for improving public service delivery and infrastructure development. By

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<sup>24</sup>Leftwich, A. (2000). *States of Development: On the Primacy of Politics in Development*. Polity Press, pp. 154–180.

<sup>25</sup>Pollitt, C., & Bouckaert, G. (2011). *Public Management Reform: A Comparative Analysis – New Public Management, Governance, and the Neo-Weberian State* (3rd edition). Oxford University Press, pp. 20–50.

drawing on theories such as the Principal-Agent Theory, Transaction Cost Economics, Public Choice Theory and others, it is clear that PPPs offer a framework for reducing inefficiencies in the public sector, lowering transaction costs and fostering innovation. Moreover, PPPs enable governments to harness private sector expertise and investment while maintaining strategic oversight to ensure that public interests are safeguarded.

The application of PPPs in the context of Nigeria provides an opportunity to modernize the public sector, address inefficiencies and drive economic development in critical sectors. As this dissertation has shown, PPPs can be a powerful tool for bridging the gap between the needs of the public and the capabilities of the private sector. In this way, PPPs not only contribute to economic growth but also to the broader goal of enhancing the quality of life for citizens.

The adoption of PPPs, as exemplified by Ibom Air, aligns with New Public Management (NPM), which advocates for applying private sector principles (efficiency, competition, output-driven results) to public service delivery. NPM emphasizes decentralization, autonomy and performance metrics, all of which are present in the Ibom Air model.<sup>26</sup> Moreover, it is also consistent with the Developmental State Theory where the government assumes an active role in guiding economic development through strategic partnerships with the private sector.<sup>27</sup>

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<sup>26</sup> Olamide HO. *Public-Private Partnerships in Nigeria: 'Theoretical and Practical Perspectives'* (Abuja: Federal Government Press, 2021), 140.

<sup>27</sup>Ibid., 150.

## 5.7 The Way Forward: Policy Recommendations

1. *Strengthen the Legal and Regulatory Framework for PPPs*: For PPPs to succeed, it is imperative that Nigeria establish robust legal and regulatory frameworks. This will provide clarity, ensure transparency and boost investor confidence in government projects.<sup>28</sup>
2. *Ensure Proper Oversight and Accountability*: Public-private projects must be subject to rigorous oversight by independent bodies such as the Infrastructure Concession Regulatory Commission (ICRC) to prevent corruption and inefficiency.<sup>29</sup>
3. *Replicate Ibadan Air's Model in Other Sectors*: States should consider replicating Ibadan Air's model in other sectors such as healthcare, education and transport. By leveraging both public ownership and private sector efficiency, Nigeria can unlock new growth opportunities.

The Ibadan Air case study presents a compelling example of how privatization, when executed properly under a public-private partnership framework, can enhance both service delivery and economic development. By embracing PPPs in more sectors, Nigeria can achieve a more balanced and sustainable model of development, one that harnesses the strengths of both the public and private sectors while ensuring broader access to essential services for its citizens.

## 5.8 Conclusion

This dissertation has embarked on a comprehensive exploration of privatization in Nigeria, scrutinizing the efficiency of privatization in various sectors, its implications on

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<sup>28</sup>N. O. Osundare, *The Role of PPPs in Achieving Sustainable Development in Nigeria* (Lagos: UBA Publishing, 2021), 128.

<sup>29</sup>*Ibid.*, 131.

job creation and quality of life and the broader impact on the public sector. The examination spanned across multiple countries - comparing Nigeria with the United Kingdom, India, Brazil and South Africa - to understand the success factors and challenges inherent in privatization processes globally. By contextualizing the Nigerian experience within these international frameworks, the study highlighted the critical role of law, policy enforcement and cultural factors in determining the success or failure of privatization strategies.

The analysis in Chapter Two and Three are pivotal in illustrating the multifaceted nature of privatization, offering a detailed comparative assessment of Nigeria's privatization process. The evaluation of different sectors such as telecommunications, power, transport, banking and housing, allowed for a deeper understanding of the nuanced impact privatization has on various facets of society. In particular, the study revealed the often-contradictory effects privatization can have on job creation. While some sectors experienced efficiency gains and enhanced competition, others saw the erosion of social welfare and job security. This dichotomy underlined the need for a balanced approach in designing privatization policies that take into account the long-term societal impacts.

The case studies of the four comparator countries further provided a well-rounded analysis of how legal frameworks, political environments and cultural attitudes towards privatization influenced the outcomes of these reforms. The findings suggest that while privatization has often led to economic growth and improved public service delivery in some cases, it has also resulted in increased inequality and loss of public goods in others. The comparative analysis provided critical lessons for Nigeria, particularly the

importance of a gradual, context-specific approach to privatization, supported by robust regulatory frameworks and social safety nets.

However, as Chapter Four illustrated, challenges remain in privatizing Nigeria's public enterprises, such as inefficiency, corruption, and mismanagement of resources. The public sector, while often criticized for inefficiency, still plays a critical role in addressing public welfare concerns, particularly in the provision of basic services such as healthcare, education and infrastructure. These challenges bring to light the need for an innovative middle ground - public-private partnerships (PPPs), which offer a strategic balance between the public and private sectors. The Ibom Air case study exemplified how such partnerships, if properly structured, can contribute to economic growth, regional development and social welfare.

Public-private partnerships provide the possibility of combining the efficiency, expertise and capital of the private sector with the developmental goals and regulatory oversight of the public sector. Ibom Air, as a case study, showcased how regional state governments could leverage PPPs to improve infrastructure, create jobs and enhance quality of life for citizens. This represents a model that can be replicated in other sectors of the economy. The success of Ibom Air highlights the potential for PPPs to provide public goods while ensuring that the interests of private investors are safeguarded, thus fostering sustainable development.

In conclusion, the study advocates for a strategic, context-specific approach to privatization and PPPs in Nigeria. While privatization remains a key component of Nigeria's economic strategy, its implementation must be adapted to the country's unique

socio-economic and political environment. The challenges identified such as the need for legal reform, enhanced enforcement of policies and addressing socio-political factors must be carefully navigated to ensure the success of privatization initiatives. This dissertation has demonstrated that a balanced approach, drawing on the lessons from both domestic and international experiences, can provide a pathway to more effective privatization processes that not only stimulate economic growth but also improve the overall quality of life for Nigerians. By embracing public-private partnerships, Nigeria has the opportunity to harness the benefits of privatization while safeguarding public interests. The integration of public sector oversight with private sector efficiency can lead to a more equitable distribution of resources and sustainable development, addressing the pressing socio-economic challenges facing the country. It is, therefore, essential for policymakers to consider these findings and adopt a pragmatic approach to the future of privatization and public-private partnerships in Nigeria.

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